Chapter 50. Zoning 1
Article I. General Provisions 1
§ 50-1. Statutory authority. 1
§ 50-2. Title. 1
§ 50-3. Purpose and intent. 1
§ 50-4. Interpretation. 2
§ 50-5. Effective date. 3
§ 50-6. Effect on existing approvals and conditions. 3
§ 50-7. Compliance required. 4
§ 50-8. Certificate of compliance required. 4
Article II. Zoning Districts and Map 5
§ 50-9. Establishment of districts. 5
§ 50-10. Official Zoning Map. 5
Article III. Definitions. 6
§ 50-11. Word usage. 6
§ 50-12. Definitions. 6
Article IV. Residential Districts 32
§ 50-13. Agricultural Residential Districts (A-R). 32
§ 50-14. Single Family Residential (R). 34
§ 50-15. Multifamily Residential Mixed Use District (MFMU). 36
§ 50-16. Supplementary regulations for A-R, R, and MFMU districts. 39
Article V. Commercial Districts 41
§ 50-17. Light Commercial (LC). 41
§ 50-18. General Commercial (GC) 44
§ 50-19. Supplementary regulations for LC and GC Districts. 45
Article VI. Industrial Districts. 45
§ 50-20. Light Industrial District (LI). 45
§ 50-21. General Industrial District (GI). 48
§ 50-22. Supplementary regulations for LI district 49
§ 50-23. Supplementary regulations for GI district 49
Article VII. Overlay Districts 52
§ 50-24. Sand, Gravel and Aggregate Mining and Excavation Overlay District (SGA) .. 53
§ 50-25. Planned Unit Development/Incentive Zoning (PUD) Overlay District 55
§ 50-26. Environmental Resource Protection Overlay Districts (ERPOD) 60

DRAFT

§ 50-27. Access Management Overlay District (AMOD). 62
Article VIII. Regulations Applying to All Districts 76
§ 50-28. Off-street parking, loading and stacking facilities. 76
§ 50-29. Landscaping. 85
§ 50-30. Signs. 87
§ 50-31. Nonconforming uses. 94
§ 50-32. Minimum building lines on major streets. 97
§ 50-33. Supplementary height regulations. 97
§ 50-34. Fences and walls. 97
§ 50-35. Clear vision at intersections. 98
§ 50-36. Projections into yards and courts. 98
§ 50-37. Ornamental gates and portals. 99
§ 50-38. Subdivisions. 99
§ 50-39. Lot division; flag lots. 128
§ 50-40. Yards for outdoor storage. 130
§ 50-41. Composting 130
Article IX. Communications Towers 131
§ 50-42. Legislative intent. 131
§ 50-43. Co-locating antennas on existing structures. 131
§ 50-44. Communications towers, site plan, and special use permit. 131
§ 50-45. Town-owned property; exemption by Town Board. 132
§ 50-46. Special use permit requirements. 132
§ 50-47. Height. 134
§ 50-48. Procedure. 134
§ 50-49. Exemptions. 135
§ 50-50. Waivers. 135
§ 50-51. Fees. 135
Article X. Small Wireless Facilities 135
§ 50-52. Conditions Applying to All Small Wireless Facilities 135
§ 50-53. Conditions Applying to Small Cell Wireless Facilities Located in the Town ROW 146
Article XI. Solar Energy Facilities 147
§ 50-54. Purpose. 147
§ 50-55. Applicability. 148
§ 50-56. Solar collectors and installations for minor systems. 148

DRAFT

§ 50-57. Major solar systems. 149
§ 50-58. Special use permit requirements. 151
Article XII. Battery Energy Storage Systems 152
§ 50-59. Authority 152
§ 50-60. Statement of Purpose 152
§ 50-61. Definitions 152
§ 50-62. Applicability 152
§ 50-63. General Requirements 153
§ 50-64. Permitting Requirements for Tier 1 Battery Energy Storage Systems 153
§ 50-65. Permitting Requirements for Tier 2 Battery Energy Storage Systems 153
§ 50-66. Safety 158
§ 50-67. Permit Time Frame and Abandonment 159
§ 50-68. Enforcement 159
§ 50-69. Severability 159
Article XIII. Stormwater Control 160
§ 50-70. Definitions. 160
§ 50-71. Storm water pollution prevention plans. 160
§ 50-72. Performance and design criteria. 163
§ 50-73. Maintenance and repair of storm water facilities. 164
Article XIV. Administration and Enforcement 165
§ 50-74. Amendment procedure. 165
§ 50-75. Site plan review. 169
§ 50-76. Administrative procedures. 176
§ 50-77. Zoning Board of Appeals. 177
§ 50-78. Special use permits. 178
§ 50-79. Fees 180
§ 50-80. Penalties for offenses. 180
§ 50-81. Severability 181
§ 50-82. Repealer 181

DRAFT

Chapter 50. Zoning

Article I. General Provisions

§ 50-1. Statutory authority.

This Local Law is adopted pursuant to the authority conferred by Article 16 of the New York Town Law and the New York Municipal Home Rule Law, unless other bases of authority are indicated herein.

§ 50-2. Title.

This Chapter shall be known as the "Town of Lancaster Zoning Law," the "Town of Lancaster Zoning Code," or the "Zoning Law."

§ 50-3. Purpose and intent.

A. Purpose and intent.

(1) The purpose and intent of this Zoning Law is to provide for the orderly growth of the Town and to promote and protect to the fullest extent permissible the environment of the Town and the public health, safety, convenience, comfort, prosperity and general welfare of its residents by regulating the use of buildings, other structures and land for residences, open space, public facilities, business, services, industry or other purposes; by regulating and restricting the bulk, height, design, lot coverage and location of structures, by regulating and limiting population density; and, for the aforesaid purposes, to divide the land within the limits of the Town into districts of such number and dimensions in accordance with the objectives of the Comprehensive Plan; and to provide procedures for the administration and amendment of said Zoning Law.

(2) The ordinance is intended to achieve, among others, the following objectives:

(a) Implement the Town Comprehensive Plan.

(b) To protect the character and values of residential, institutional and public uses, business, commercial and manufacturing uses; and to ensure their orderly and beneficial development.

(c) To provide adequate open spaces for light, air and outdoor uses to include public, common and private open space areas.

(d) To prevent overcrowding of the land.

(e) To promote mixed use development and walkable communities.

(f) To prevent excessive concentration of population and, on the other hand, to prevent sparse and uncoordinated development

DRAFT

(g) To regulate and control the location and spacing of buildings on the lot and in relation to the surrounding property so as to carry out the objectives of the Comprehensive Plan of the Town.

(h) To protect persons and property from damage and injury due to fire or flood.

(i) To protect significant natural features and vegetation; thereby preventing ecological damage and visual blight which occur when these features or vegetation are eliminated or substantially altered to serve development purposes only.

(j) To assure that structures and land use arrangements are aesthetically harmonious with nearby areas and structures.

(k) To regulate the location of buildings and intensity of uses in relation to streets according to plans so as to cause the least interference with and be damaged least by traffic movements and hence result in lessened street congestion and improved public safety.

(l) To establish zoning patterns that ensure economic extensions for sewers, water supply, waste disposal and other public utilities, as well as development of recreation, schools and other public facilities.

(m) To foster sustainable growth, including managing impacts from increased development, including traffic.

(n) To guide the future development of the Town so as to bring about the gradual conformity and continuity of land and building uses in accordance with the objectives of the Comprehensive Plan.

(o) To accomplish the specific intents and goals set forth in the introduction to the respective sections.

(p) To protect the community from visual pollution resulting from the unregulated use of signs and other advertising devices.

§ 50-4. **Interpretation.**

A. The provisions of this Zoning Law shall not annul or in any way interfere with existing deed or plat restrictions, easements or other agreements between persons, Codes, laws, rules, regulations or permits previously adopted or issued, except those ordinances/local laws or sections thereof which are contrary to and in conflict with this ordinance.

B. Wherever this Zoning Law imposes greater restrictions upon the use of structures or land, the height or bulk of buildings, or requires larger land or building areas, yards or other open spaces than are otherwise required or imposed by deed or plat restrictions or laws, this ordinance shall control; and conversely, other regulations shall control where they impose greater restrictions than this ordinance, and for that purpose this ordinance shall not annul,

DRAFT

modify or impair the provisions of any existing deed or plat restrictions, easements or other agreements.

C. In interpreting and applying the provisions of this Zoning Law, its provisions shall be held to be the minimum requirements for the promotion of public health, safety, convenience, comfort, prosperity and general welfare and to accomplish the intent thereof. Except as specifically provided herein, it is not intended by the adoption of this ordinance to repeal, abrogate or annul any existing provision of any law previously adopted relating to the use of structures and land and the design, erection, alteration or maintenance of structures thereon. Titles and headings have been inserted for convenience of reference and are not intended to define or limit the scope of or otherwise affect any provisions in this Zoning Law.

D. Prohibited uses. Any use not specifically listed as an approved as-of-right or specially permitted use is not allowed in the Town of Lancaster.

E. Zoning district boundaries. Where uncertainty exists with respect to the boundaries of various districts, as show on the Zoning Map, the following rules shall apply:

(1) Where the designation on the Zoning Map indicates a boundary which is a street or public right-of-way, the center line of the road shall be construed to be the boundary.

(2) Where the designation on the Zoning Map indicates a boundary approximately upon a lot line, such lot line shall be construed to be the boundary.

(3) The Code Enforcement Officer shall interpret the Zoning Map in the first instance.

§ 50-5. **Effective date.**

The effective date of this Zoning Law is the date upon which it is filed in the office of the Secretary of State.

§ 50-6. **Effect on existing approvals and conditions.**

Any variance, site plan approval, special use permit, or other approval or conditions lawfully issued prior to the effective date of this Zoning Law, or any amendment thereof, which could be lawfully issued pursuant to provisions in effect after the effective date of this Local Law shall be deemed to be valid and continue as valid after such effective date. Any structure or use lawfully authorized by any such approval which could not be so issued after such effective date shall be allowed to continue if it meets the definition of a lawful nonconforming use, subject to the provisions of this Zoning Law dealing with leally existing nonconformities. With respect to uses that have not commenced and structures that have not been constructed, this Zoning Law shall apply on its effective date to all such uses regardless of the status of permits or certificates of occupancy issued pursuant to the New York State Uniform Fire Prevention and Building Code.

DRAFT

§ 50-7. **Compliance required.**

A. No structure or building shall be erected, no existing buildings hall be altered, enlarged or rebuilt, nor shall any open space surrounding any building be encroached upon or reduced in any manner except in conformity with the yard, lot area, height, and building regulations hereinafter designated for the district in which such building or open space is located, and upon issuance of all approvals required by this Zoning Law.

B. No use shall be conducted or changes, or property altered in any manner except in conformity with this Zoning Law.

C. No lot area shall be reduced, altered, or subdivided as to create a nonconforming lot.

D. No use is permitted unless specifically authorized herein.

E. Nothing in this Chapter shall be read as eliminating the requirement for compliance with any Chapter of the Town of Lancaster Code.

§ 50-8. **Certificate of compliance required.**

A. No land shall be occupied or used, and no structure erected, reconstructed or structurally altered shall be occupied or used, in whole or in part, for any purpose whatsoever, until a certificate of compliance shall have been issued by a Code Enforcement Officer stating that the structure and use appear to comply with all applicable provisions of this Zoning Law, including with any approval conditions that may be applicable. No change in any use shall be made to any structure or part thereof, except in conformance with a certificate of compliance issued by a Code Enforcement Officer. Where a certificate of occupancy is required under Chapter 8 of the Code, Building Code Administration, the certificate of occupancy shall constitute the certificate of compliance and all requirements for a certificate of compliance shall apply to the certificate of occupancy, in addition to those set forth in Chapter 8.

B. Existing building certificate of compliance. A certificate of compliance for any existing structure or use of land may be obtained by applying to a Code Enforcement Officer and supplying the information and data necessary to determine compliance with the Zoning Law.

C. No estoppel effect. A Code Enforcement Officer shall use his or her best efforts to ensure that all Code provisions are complied with prior to issuance of any certificate of compliance. But if later inspection or events disclose any noncompliance with Town Codes or this Zoning Law, issuance of a certificate of compliance shall in no manner limit the right of the Town to enforce its Codes and this Zoning Law through all civil and/or criminal remedies available.

D. No liability for damages. This Zoning Law shall not be construed to hold the Town responsible for any damages to persons or property by reason of inspections made pursuant

DRAFT

to an application for a certificate of compliance or issuance of or failure to issue a certificate of compliance, and nothing in this Zoning Law shall be construed to impose a duty upon the Town towards any person or property.

Article II. Zoning Districts and Map

§ 50-9. Establishment of districts.

In order to carry out the purpose, intent and objectives of this Zoning Law, the Town is hereby divided into the following districts, which shall be designated on the Official Zoning Map by symbols and boundaries, said districts to be known as:

Symbol	Districts
	Residential Districts
A-R	Agricultural Residential District
R	Single Family Residential District
MFMU	Multi Family Mixed Use District
	Commercial Districts
LC	Light Commercial District
GC	General Commercial District
	Industrial Districts
LI	Light Industrial District
GI	General Industrial District
	Overlay Districts
SGA	Sand Gravel Aggregate Mining and Extraction Overlay District
PUD	Planned Use Development/Incentive Zoning Overlay District
ERPOD	Environmental Resource Protection Overlay District
AM	Access Management Overlay District

§ 50-10. Official Zoning Map.

The aforesaid districts are designated by symbols and the location and boundaries of said districts are shown on the Official Zoning Map on file in the Office of the Town Clerk, which, together with all explanatory matter thereon, is hereby adopted by reference and declared to be part of this Zoning Law. If, in accordance with the provisions of this ordinance, changes are made in district boundaries or other matters portrayed on the Official Zoning Map, such changes shall be indicated on the map after the amendment has been adopted by the Town Board.

DRAFT

Article III. Definitions

§ 50-11. Word usage.

A. Except where specifically defined herein, all words used in this Zoning Law shall carry their customary meanings.

B. Words used in the present tense include the future, and the plural includes the singular.

C. The word "and" indicates that all connected items, conditions, provisions or events shall apply.

D. Any word "or" indicates that the connected items, conditions, provisions or events shall apply singly or in any combination.

E. The term "either . . . or" indicates that the connected items, conditions, provisions or events apply singly and not in any combination.

F. The word "district" includes the plural "districts."

G. The word "lot" includes "plot" or "parcel."

H. The word "building" includes the word "structure." Any reference to building or structure also refers to any part of a building or structure.

I. The word "shall" is intended to be mandatory.

J. The word "may" is intended to be permissive.

K. The words "occupied" or "used" shall be construed to include the words "or intended, arranged or designed to be used or occupied," and the words "occupancy" or "use" shall be construed as similarly qualified.

L. The word "person" includes "company," "firm," "partnership," "estate," "trust," "limited liability company," or "corporation."

§ 50-12. Definitions.

Words in this ordinance are normally used in their ordinary English usage. Certain terms shall have the meaning hereinafter set forth, except where the context clearly indicates a different meaning:

A. General terms.

DRAFT

BUILDING INSPECTOR
The Building Inspector of the Town of Lancaster, New York.

CLERK
The Town Clerk of Lancaster, New York.

COUNTY
Erie County, New York.

ENGINEER
The Town Engineer of Lancaster, New York.

HIGHWAY SUPERINTENDENT
The Highway Superintendent of the Town of Lancaster, New York.

LAW
Law, ordinance, rule or regulation of the federal, state, county and Town governments as appropriate.

PERSON
Includes a firm, association, organization, partnership, company, joint venture or corporation, as well as an individual.

PLANNING BOARD
The Planning Board of the Town of Lancaster, New York.

TOWN
The Town of Lancaster, Erie County, New York, outside the Villages of Lancaster and Depew, New York.

USED OR OCCUPIED
Includes the words "intended, designed or arranged to be used or occupied."

ZONING BOARD OF APPEALS
The Zoning Board of Appeals of the Town of Lancaster, New York.

B. Specific terms.

ACCESS
A way or means of approach to provide vehicular or pedestrian entrance or exit to a parcel.

ACCESS CONNECTION, VEHICULAR
Any driveway, private street, turnout, or other means of providing for the movement of vehicles to or from a public street.

DRAFT

ACCESS MANAGEMENT

The process of locating and designing vehicular access connections to preserve the flow of traffic in terms of safety, capacity and speed.

ACCESSORY STRUCTURE

A subordinate structure located on the same lot with the principal structure, occupied or devoted to an accessory use. Where an "accessory structure" is attached to the principal structure in a substantial manner, as by a roof, such "accessory structure" shall be considered part of the principal structure.

ACCESSORY STRUCTURE (FOR SMALL WIRELESS FACILITY)

An accessory facility or structure serving or being used in conjunction with a communications tower, and located within 100 feet of the communications tower. Examples of such structures include utility or transmission equipment storage sheds or cabinets.

ADULT BOOKSTORE

An establishment having as a substantial or significant portion of its stock-in-trade books, magazines, films for sale or viewing on the premises, and other periodicals which are distinguished or characterized by their emphasis on matter depicting or relating to specified sexual activities or specified anatomical areas or an establishment with a segment or section devoted to the sale or display of such material.

ADULT ENTERTAINMENT

Certain uses including, but not limited to, adult motion-picture theatres of any size, adult cabarets, adult massage parlors, and adult retail novelty shops.

ADULT ENTERTAINMENT CABARET

A public or private establishment which is licensed to serve food and/or alcoholic beverages, which features topless dancers and/or bottomless dancers, strippers, male or female impersonators or similar entertainers, or employees appearing in a bottomless and/or topless manner of dress.

ADULT MINI-MOTION-PICTURE THEATER

An enclosed building with a capacity of less than 50 persons used for presenting material distinguished or characterized by emphasis on matter depicting, describing or relating to specified sexual activities or specified anatomical areas for observation by patrons therein.

ADULT MOTION-PICTURE THEATER

An enclosed building with a capacity of 50 or more persons used for presenting material having as a dominant theme material distinguished or characterized by an emphasis on matter depicting, describing or relating to specified sexual activities or specified anatomical areas for observation by patrons therein.

DRAFT

AGRICULTURAL ACTIVITY

The activity of an active farm, including grazing and watering livestock, irrigating crops, harvesting crops, using land for growing agricultural and horticultural products, organic farming, composting, forestry and cutting timber for sale, together with the customary building and other structures necessary for the production and storage in such pursuits.

AGRICULTURAL BUILDINGS, STRUCTURES OR OTHER FACILITIES

Includes, but is not limited to, barns, silos, sheds, coops, shops, commodity buildings, farm machine or equipment storage buildings, greenhouses, stables, riding rings or arenas, exercise tracks, runs, dry lots, stalls, paddocks, pens, corral or fences, windmills, water supply ponds, farm stands, manure storage facilities, and out buildings or enclosures.

ALLEY

A strip of land over which there is a right-of-way, municipally or privately owned, serving as a secondary means of access to two or more properties.

ALTERATION

A change, rearrangement or addition to, or any relocation of, a building or structure; any modification in construction or equipment.

ALTERNATIVE ENERGY SYSTEMS

Structures, equipment, devices or construction techniques used for the production of heat, light, cooling, electricity or other forms of energy on site and may be attached to or separate from the principal structure.

ANSI

American National Standards Institute.

ANTENNA

A system of electrical conductors that transmit or receive radio frequency signals. Such signals shall include but not be limited to radio, television, cellular, paging, personal communication services (PCS) and microwave communications.

APPLICANT

A property owner or agent of a property owner who has filed an application for a land development activity.

BASEMENT

A story partly below the grade level but having at least one-half (½) of its height above the average grade of the surrounding land.

BATTERY(IES):

A single cell or a group of cells connected together electrically in series, in parallel, or a combination of both, which can charge, discharge, and store energy electrochemically. For the purposes of this law, batteries utilized in consumer products are excluded from these requirements.

DRAFT

BATTERY ENERGY STORAGE MANAGEMENT SYSTEM

An electronic system that protects energy storage systems from operating outside their safe operating parameters and disconnects electrical power to the energy storage system or places it in a safe condition if potentially hazardous temperatures or other conditions are detected.

BATTERY ENERGY STORAGE SYSTEM

One or more devices, assembled together, capable of storing energy in order to supply electrical energy at a future time, not to include a stand-alone 12-volt car battery or an electric motor vehicle. A battery energy storage system is classified as a Tier 1 or Tier 2 Battery Energy Storage System as follows:

1. Tier 1 Battery Energy Storage Systems have an aggregate energy capacity less than or equal to 600 kilowatt hours ("kWh") and, if in a room or enclosed area, consist of only a single energy storage system technology.

2. Tier 2 Battery Energy Storage Systems have an aggregate energy capacity greater than 600 kWh or are comprised of more than one storage battery technology in a room or enclosed area.

BOARDING STABLE

A structure designed for the feeding, housing and exercising of horses not owned by the owner of the premises and for which the owner of the premises may receive compensation (*see*, "horse farm").

BOAT

Any vessel capable of transport by water.

BOTTOMLESS

Any manner of dress in which a person appears with less than completely and opaquely covered human genitals and/or pubic region.

BUFFER

A landscaped open space required to separate different land uses.

BUILDABLE AREA

That portion of the lot remaining after required yards have been provided.

BUILDING

Any improvement having a roof supported by columns or walls for the housing or enclosure of persons, animals or chattels; mobile home.

BUILDING AREA

The maximum horizontal projected area measured from the exterior walls of the building and its accessory building.

DRAFT

BUILDING HEIGHT

The vertical distance from the finished grade line at the foundation to the highest point of the roof.

BUILDING-INTEGRATED PHOTOVOLTAIC (BIPV)

The incorporation of photovoltaic (PV) material into a building's envelope. Technologies include PV shingles or tiles, PV laminates, and PV glass. Examples of placement include vertical facades, semitransparent skylights, awnings, fixed awnings, and roofs.

BUILDING LINE (or FRONT SETBACK LINE)

A line parallel to the right-of-way street line, between which line and the street right-of-way no building may be built.

CAMPER

A compact, temporary living unit which is either non-motorized and inserted and secured to the bed of a pickup truck, or is mounted or designed for mounting on wheels and which includes accommodations designed for sleeping or living purposes for one or more persons, and designed to be towed behind a motor vehicle.

CAMPER-TRAILER

Any structure which is mounted or designed for mounting on wheels and which includes accommodations designed for sleeping or living purposes for one or more persons, and designed to be towed behind a motor vehicle.

CELL

The basic electrochemical unit, characterized by an anode and a cathode, used to receive, store, and deliver electrical energy.

CERTIFICATE OF COMPLIANCE

A certificate issued by a Code Enforcement Officer certifying that a structure or use of land is in compliance with the Zoning Law.

CERTIFICATE OF OCCUPANCY

A certificate issued by the Code Enforcement Officer certifying that a building is compliant with the applicable building Codes and other laws and requirements, and indicating that the building is suitable for occupancy by its intended use.

CHANNEL

A natural or artificial watercourse with a definite bed and banks that conducts continuously or periodically flowing water.

CLEARANCE ZONE

Distance from the center line of Transit Road right-of-way to a parallel line crossing frontage parcels.

CLEARING

Any activity that removes the vegetative surface cover.

DRAFT

CLUB (PRIVATE)

A not-for-profit organization, not including a fraternity or sorority house, whose premises are restricted to its members and their guests.

COLLECTIVE SOLAR

Installations of solar energy systems that are owned collectively through a homeowners' association, "adopt-a-solar-panel" programs, or other similar arrangements.

COMMERCIAL RECREATIONAL USE

The use of land or structures for the purpose of providing recreational opportunities to the public. Such recreational opportunities include, but are not limited to, movie theatres, skating rinks, race tracks, indoor sports, and golf courses.

COMMERCIAL VEHICLE

A pickup truck, van or other vehicle with a license plate and/or registration which designates that vehicle as being commercially licensed and/or which advertises by name or symbol any business or service (automobile dealership labels excluded).

COMMISSIONING

A systematic process that provides documented confirmation that a battery energy storage system functions according to the intended design criteria and complies with applicable Code requirements.

COMMUNICATIONS TOWER

A structure designed to support antennas. It includes without limit, freestanding towers, guyed towers, monopoles, and similar structures which employ camouflage technology.

COMPREHENSIVE PLAN

The Comprehensive Master Plan for the Town of Lancaster and all subsequent updates or addenda thereto.

CORNER CLEARANCE

The distance from an intersection of two or more streets to the nearest access connection.

COURT, INNER

An unroofed, open space enclosed by four walls.

COURT, OUTER

Same as inner court, but with one side open to a yard.

CROSS ACCESS

The layout of circulation patterns and recording of a permanent enforceable right of access to allow travel between two or more contiguous parcels without traveling on a public street.

DRAFT

CURB CUT

A curb break, or a place or way provided for the purpose of gaining vehicular access between a street and abutting property.

CUL-DE-SAC

A short dead-end street terminating in a vehicular turnaround area.

DEDICATED-USE BUILDING

A building that is built for the primary intention of housing battery energy storage system equipment, is classified as Group F-1 occupancy as defined in the International Building Code, and complies with the following:

1. The building's only use is battery energy storage, energy generation, and other electrical grid-related operations.

2. No other occupancy types are permitted in the building.

3. Occupants in the rooms and areas containing battery energy storage systems are limited to personnel that operate, maintain, service, test, and repair the battery energy storage system and other energy systems.

4. Administrative and support personnel are permitted in areas within the buildings that do not contain battery energy storage system, provided the following:

    a. The areas do not occupy more than 10 percent of the building area of the story in which they are located.

    b. A means of egress is provided from the administrative and support use areas to the public way that does not require occupants to traverse through areas containing battery energy storage systems or other energy system equipment.

DEDICATION

The deliberate appropriation of property by its owner for general public use.

DEPARTMENT

The New York State Department of Environmental Conservation.

DESIGN MANUAL

The New York State Stormwater Management Design Manual, most recent version, including applicable updates, that serves as the official guide for storm water management principals, methods and practices.

DEVELOPER

A person who undertakes land development activities.

DRAFT

DEVELOPMENT AREA

An area of land permitted by this ordinance to be developed by a single owner or group of owners, acting jointly, which may consist of a parcel or assembled parcels planned and developed as an entity.

DIAMETER BREAST HEIGHT (DBH)

The diameter of a tree species at approximately 4 ½ feet above ground level.

DRIVEWAY

Any entrance or exit used by vehicular traffic to or from land or building to an abutting street.

DRIVEWAY, SHARED

A driveway in common ownership or subject to a permanent enforceable right of access by those traveling to or between two or more parcels.

DWELLING

A building or portion thereof designed or occupied exclusively for residential and permitted accessory uses.

1. **DWELLING UNIT**
   A room or group of rooms within a building forming a single habitable unit which may be occupied by a single [one] family for living, sleeping, cooking and eating purposes. A "dwelling unit" may be attached or detached.

2. **MULTIFAMILY DWELLING**
   A building or portion thereof containing three or more dwelling units and designed or used for occupancy by three or more families living independently of each other.

3. **SINGLE-FAMILY DWELLING**
   A building containing one dwelling unit and designed or used exclusively for occupancy by one family.

4. **TWO-FAMILY DWELLING**
   A building containing two families living independently of each other; or two one-family dwellings having a party wall in common.

EASEMENT

An authorization by a property owner for the use by another, and for a specified purpose, of any designated part of the property owner's property.

ECDPW

Erie County Department of Public Works

DRAFT

ENERGY CODE

The New York State Energy Conservation Construction Code adopted pursuant to Article 11 of the Energy Law, as currently in effect and as hereafter amended from time to time.

ENLARGEMENT

An increase in floor area of an existing building or an increase in size of an existing structure or an increase in the area of land used for an existing open use.

EROSION CONTROL MANUAL

The most recent version of the New York Standards and Specifications for Erosion and Sediment Control manual, commonly known as the "Blue Book."

EXTENSION

An increase in the amount of existing floor area used for an existing use in an existing building.

FAMILY

Any number of individuals related by blood, marriage or adoption, or not more than three individuals who are not so related, living together as a single housekeeping unit.

FARM OR FARM OPERATION

The land, buildings and equipment used in the production, whether for profit or otherwise, of agricultural goods and services, including the cultivation of land, raising of crops or livestock, poultry, dairy pursuits, equestrian and other equine activities, timber harvesting, the practicing of horticulture or keeping of bees, without reference to its extent or the tenure by which it is held. Such farm operations may consist of one or more parcels of owned or rented land, with parcels being contiguous or non-contiguous to each other.

FIRE CODE

The Fire Code section of the New York State Uniform Fire Prevention and Building Code adopted pursuant to Article 18 of the Executive Law, as currently in effect and as hereafter amended from time to time.

FLAG LOT

A lot shaped like a flag on a pole. The flag-shaped area is the portion of a lot where all structures may be located. The pole-shaped area is the portion of the lot by which vehicular access to the flag area from its adjoining road is located.

FLOOR AREA

The total horizontal area of a building as outlined by its exterior walls, not including any space the habitation of which is prohibited by any law, built-in or attached garages, porches or terraces.

DRAFT

FRANCHISED DEALER

A person holding a current franchise for the sale and servicing of new products, to include cars, trucks, boats, mobile homes and similar items.

FUNCTIONAL AREA (INTERSECTION)

The area beyond the physical intersection of two controlled access facilities that comprises decision and maneuver distance, plus any required vehicle storage length.

GAME ROOM

A building or place containing four or more amusement games.

GARAGE, PRIVATE

A building, accessory to dwellings, used exclusively for the parking or temporary storage of motor vehicles, boats and trailers.

GARAGE, REPAIR

A main or accessory building used or designed for motor vehicle repair purposes; a service garage if accessory to an automobile salesroom.

GARAGE, STORAGE

A main or accessory enclosed building with doors, other than a private garage, used for parking or temporary storage.

GASOLINE SERVICE STATION

A place where gasoline, motor fuel and/or oil, grease, batteries, tires and motor vehicle accessories may be sold, supplied and/or dispensed at retail and where, in addition, the following services may be rendered and sales made:

1. Sales and servicing of spark plugs, batteries and distributors and distributor parts.

2. Tire servicing and repair, but not recapping or retreading.

3. Replacement of mufflers and tail pipes, water hose, fan belts, brake fluid, light bulbs, fuses, floor mats, seat covers, windshield wipers and wiper blades, grease retainers, wheel bearings, mirrors and the like.

4. Radiator cleaning and flushing.

5. Washing and polishing, and sale of automotive washing and polishing materials.

6. Greasing and lubrication.

7. Providing and repairing of pumps and lines.

8. Minor servicing and repair of carburetors.

DRAFT

9. Wiring repairs.

10. Adjusting and repairing brakes.

11. Minor motor adjustments.

12. Sale of beverages, packaged foods, tobacco and similar convenience goods.

13. Provision of road maps and other informational material to customers; provision of rest-room facilities.

14. Uses permissible at a service station do not include major mechanical and body work, straightening of body parts, painting, welding or storage of automobiles not in operating condition. A service station is not a repair garage nor a body shop.

GBNRTC

Greater Buffalo Niagara Regional Transportation Council.

GLARE

A continuous source of excessive brightness, relative to diffused lighting. This is not a direct reflection of the sun, but rather a reflection of the bright sky around the sun. Glare is significantly less intense than glint.

GLINT

A momentary flash of light that may be produced as a direct reflection of the sun on a solar collection system.

GRADING

Excavation or fill of material, including the resulting conditions thereof.

GROUND FLOOR AREA

The maximum horizontal area of a building at the ground level, excluding open porches, terraces and steps and attached or built-in garage areas.

GROUP DEVELOPMENT

Two or more structures containing attached dwelling units. Structures need not be on individual lots.

GROUND-MOUNTED SYSTEM

A solar energy system that is anchored to the ground and attached to a pole or similar mounting system, detached from any other structure.

HOME OCCUPATION

Any occupation or business use, full- or part-time, conducted entirely within a dwelling or an accessory structure, or both, by a resident of the property.

DRAFT

HORSE FARM

A farm primarily used for the breeding, boarding and training of horses, including associated structures and areas required for farm operation (*see*, "boarding stable").

HOSPITAL, ANIMAL

An establishment for the medical and or surgical care of animals.

IMPERVIOUS COVER

Those surfaces, improvements and structures that cannot effectively infiltrate rainfall, snowmelt and water (e.g., building rooftops, pavement, sidewalks, driveways, etc.).

INDUSTRIAL STORM WATER PERMIT

A State Pollutant Discharge Elimination System permit issued to a commercial industry or group of industries which regulates the pollutant levels associated with industrial storm water discharges or specifies on-site pollution control strategies.

INFILTRATION

The process of percolating storm water into the subsoil.

ITE

Institute of Transportation Engineers.

JURISDICTIONAL WETLAND

An area that is inundated or saturated by surface water or groundwater at a frequency and duration sufficient to support a prevalence of vegetation typically adapted for life in saturated soil conditions, commonly known as "hydrophytic vegetation."

KENNEL

Any premises which continuously keeps four or more dogs more than six months old.

LAND DEVELOPMENT ACTIVITY

Construction activity including clearing, grading, excavating, soil disturbance or placement of fill that results in land disturbance of equal to or greater than one acre, or activities disturbing less than one acre of total land area that is part of a larger common plan of development or sale, even though multiple separate and distinct land development activities may take place at different times on different schedules.

LANDOWNER

The legal or beneficial owner of land, including those holding the right to purchase or lease the land, or any other person holding proprietary rights in the land.

LANDSCAPED AREA

The area required or permitted under this Chapter to be devoted to landscaping and environmental improvement, which may include existing and new vegetation,

DRAFT

berms; lighting, street furnishings and ornamental features which are integrated with the vegetation.

LIVESTOCK

Animals with hooves associated with agricultural activities, including but not limited to cows, horses, pigs, goats, sheep, donkeys, mules. Exotic animals including but not limited to llamas, alpaca, bison, and exotic large birds (ostrich, emu) are included under this definition.

LOT COVERAGE

The percentage of the lot covered by the main and accessory structures.

LOT

A parcel of land for a structure, use and the accessory structures or uses customarily incident to it, including such open spaces as are required by this ordinance and such open spaces as are arranged and designed to be used in connection with such structure.

LOT LINE

Any boundary line of a lot.

LOT MEASUREMENTS:

1. **DEPTH**
   The mean horizontal distance between the front and rear lot lines.

2. **WIDTH**
   The horizontal distance of a lot measured along the building line at right angles to the rear lot depth line.

LOT OF RECORD

Land designated as a separate parcel on a plat map or deed filed or recorded in the office of the Clerk of Erie County, New York.

LOT TYPES

1. **CORNER LOT**
   A parcel of land having lot lines at the junction of two or more streets, or having lot lines on the same street forming an interior angle of intersection of not more than 135˚.

2. **INTERIOR LOT**
   A lot other than a corner lot

3. **THROUGH LOT**
   An interior lot which has frontage on more than one street.

DRAFT

MAINTENANCE AGREEMENT

A legally recorded document that acts as a property deed restriction, and which provides for long-term maintenance of storm water management practices.

MAJOR SOLAR COLLECTION SYSTEM or SOLAR FARM

An area of land or other area used for a solar collection system principally used to capture solar energy and convert it to electrical energy for transfer to the public electric grid in order to sell electricity to or receive a credit from a public utility entity but also may be for on-site use. Solar farm facilities consist of one or more freestanding ground-mounted or roof-mounted solar collector devices.

MANUFACTURED HOME

A structure, transportable in one or more sections, that in the traveling mode is eight (8) body feet (2438 body millimeters) or more in width or forty (40) body feet (12,192 body millimeters) or more in length, or where erected on site, is 320 square feet (30 meters square) or more, and that is built on a permanent chassis and designed to be used as a dwelling with or without a permanent foundation where connected to the required utilities, and includes the plumbing, heating, air conditioning and electrical systems contained therein; except that such term shall include any structure that meets all the requirements of this paragraph except the size requirements and with respect to, which the manufacturer voluntarily files a certification required by the secretary (HUD) and complies with the standards established under this title. For mobile homes built prior to June 15, 1976, a label certifying compliance to the standard for mobile homes, NFPA 501, in effect at the time of manufacture is required. For the purposes of these provisions, a mobile home shall be considered to be a manufactured home.

MASSAGE PARLOR

Any place where, for any form of consideration or gratuity, massage, alcohol rub, administration of fomentations, electric or magnetic treatments, or any other treatment or manipulation of the human body occurs as part of or in connection with "specified sexual activities," or where any person providing such treatment, manipulation or service related thereto exposes "specified anatomical areas."

MINING

Quarrying or extraction of stone, sand, gravel, topsoil or other non-metallic minerals or materials, with the exception of fuel.

MINOR OR ACCESSORY SOLAR COLLECTION SYSTEM

A solar photovoltaic cell, panel, array, solar hot air or water collector device which relies upon solar radiation as an energy source for collection, inversion, storage, and distribution of solar energy for electricity generation or transfer of stored heat, secondary to the use of the premises for other lawful purposes. Minor solar collection systems may consist of building-integrated photovoltaics, ground-mounted, or roof-mounted solar collector devices.

DRAFT

NATIONALLY RECOGNIZED TESTING LABORATORY (NRTL)

A U.S. Department of Labor designation recognizing a private sector organization to perform certification for certain products to ensure that they meet the requirements of both the construction and general industry OSHA electrical standards.

NEC

National Electric Code.

NFPA

National Fire Protection Association.

NONCONFORMING

Any lawful building or structure or any lawful use of land, premises, building or structure which does not conform to the regulations of this ordinance for the district in which such building, structure or use is located either at the effective date of this ordinance or as a result of subsequent amendments thereto.

NONCONFORMING ACCESS

An access connection existing prior to the date of adoption of the Access Management overlay district which in its design or location does not conform with the requirements of this overlay district.

NON-DEDICATED-USE BUILDING

All buildings that contain a battery energy storage system and do not comply with the dedicated-use building requirements.

NON-PARTICIPATING PROPERTY

Any property that is not a participating property.

NON-PARTICIPATING RESIDENCE

Any residence located on Non-participating Property.

NONPOINT SOURCE POLLUTION

Pollution from any source other than from any discernible, confined, and discrete conveyances, and shall include, but not be limited to, pollutants from agricultural, silvicultural, mining, construction, subsurface disposal and urban runoff sources.

NURSERY

The land and buildings used for the raising and sale of plants, trees and shrubs.

NYSDEC

New York State Department of Environmental Conservation.

NYSDOT

New York State Department of Transportation.

DRAFT

OCCUPIED COMMUNITY BUILDING

Any building in Occupancy Group A, B, E, I, R, as defined in the International Building Code, including but not limited to schools, colleges, daycare facilities, hospitals, correctional facilities, public libraries, theaters, stadiums, apartments, hotels, and houses of worship.

OPEN SPACE

An area undisturbed by buildings from the ground upward, except for walks, paths, landscaping or other site features in public, common or other private ownership. Yards of individual lots occupied by dwellings shall not constitute "open space."

OPEN SPACE, COMMON

A parcel or parcels of land or an area of water or a combination of land and water within the site, privately owned and designed and intended for the use and enjoyment of two or more households residing in the site, or a specified portion thereof, or other users if permitted by the owners of the common open space.

OWNER

Includes, in addition to its usual meaning, tenant, lessee, occupant or other user.

OVERLAY DISTRICT

A distinct classification superimposed in addition to another (basic) district classification, further regulating or limiting structures and uses otherwise permitted and regulated pursuant to the basic district classification.

PARCEL

A division of land comprised of one or more contiguous lots in common ownership.

PARKING AREA

The off-street parking area and loading and unloading area required by this ordinance.

PARTICIPATING PROPERTY

A battery energy storage system host property or any real property that is the subject of an agreement that provides for the payment of monetary compensation to the landowner from the battery energy storage system owner (or affiliate) regardless of whether any part of a battery energy storage system is constructed on the property.

PEAK-HOUR TRIP (PHT) GENERATION

A weighted average vehicle trip generation rate during the hour of highest volume of traffic entering and exiting the site or the highest volume of the adjacent street.

DRAFT

PERSON

Any person, firm, partnership, corporation, association or legal representative acting individually or jointly.

PHASING

Clearing a parcel of land in distinct pieces or parts, with the stabilization of each piece completed before the clearing of the next.

PLAT

A drawing showing the proposed plan of the subdivision and supplementary information which is submitted for approval to the Planning Board. A final plat is a survey record of the subdivision or part thereof showing location of lots, street rights-of-way, easements, and other pertinent data as the Planning Board may require.

POLLUTANT OF CONCERN

Sediment or a water quality measurement that addresses sediment (such as total suspended solids, turbidity or siltation) and any other pollutant that has been identified as a cause of impairment of any water body that will receive a discharge from the land development activity.

POND

A natural or man-made excavation used for the storage or collection of water.

PROJECT

Land development activity.

PUBLIC IMPROVEMENT PLANS (PIP)

Engineering drawings for utilities, water, pavement, curbs, sidewalks, street lighting, storm water drainage, and detention basins

QUARRY, SANDPIT, GRAVEL PIT

A plot of land or part thereof used for the purpose of extracting any natural solid products as an industrial/commercial operation, and exclusive of the process of grading a lot preparatory to the construction of a building for which application for a building permit has been made.

REASONABLE ACCESS

The minimum number and type of access connections, direct or indirect, necessary to provide safe access to and from a public street.

RECHARGE

The replenishment of underground water reserves.

RECREATIONAL VEHICLE

Any motorized vehicle used for recreational purposes such as snowmobiles, boats, trailers, and other vehicles, which may or may not include sleeping or living purposes for one or more persons.

DRAFT

RESERVE

A parcel of land within a subdivision that is intended for future use, or interim continued existing use

RESIDENT PROFESSIONAL

A health care professional, attorney, engineer, architect, community planner, landscape architect, land surveyor, accountant, insurance agent or broker, realtor, teacher and photographer only.

RESTRICTIVE MEDIAN

A physical barrier such as a metal or concrete structure or a grass or landscaped island within the street right-of-way that separates traffic by direction of travel.

RETAIL NOVELTY SHOP

Any establishment having a substantial or significant portion of its sales or stock-in-trade consisting of toys, devices, clothing, "novelties," lotions and other items distinguished or characterized by their emphasis for specified sexual activities or specified anatomical areas, or an establishment that holds itself out to the public as a purveyor of such materials based upon its signage, advertising, displays, actual sales, exclusion of minors from the establishment's premises, or any other factors showing the establishment's primary purpose is to purvey such material.

RESUBDIVISION

A change in a map of an approved or recorded subdivision plat if such change affects any street layout shown on such map, or area reserved thereon for public use, or any lot line, or if it affects any map or plan legally recorded prior to the adoption of any regulations controlling subdivision. This process is also referred to as replatting.

RIDING ACADEMY/STABLE/COMMERCIAL HORSE FARM

Any establishment where horses are kept for equestrian use, riding, driving or stabling for compensation.

RIGHT-OF-WAY ("ROW")

The width, between property lines, of a street, alley, or easement (measured at right angles to the center line of a street).

ROOF-MOUNTED SYSTEM

A solar panel system located on the roof of any legally permitted building or structure for the purpose of producing electricity for on-site or off-site consumption.

ROOMING AND BOARDING

A dwelling in which living accommodations for up to three persons are provided or offered for compensation. The accommodations shall be contained within the confines of the principal building.

DRAFT

SALVAGE YARD

Any place for the storage or deposit, whether in connection with another business or not, of used motor vehicles intended to be wrecked or junked, or stored as wrecked or junked motor vehicles; iron, steel or nonferrous scrap, where such items, or any of them, are held for the purpose of resale, dismantling parts therefrom for resale, or reclaiming for use some or all of the material therein. The term shall include any place for the storage or deposit, for any such purposes, of used parts or waste materials from motor vehicles, and shall include those established motor vehicle wrecking and/or motor vehicle dismantling operations which were subject to the licensing requirements of former Chapter 4, Auto Wrecking and Junkyards, of the Code of the Town of Lancaster.

SEDIMENT CONTROL

Measures that prevent eroded sediment from leaving the site.

SENSITIVE AREAS

Cold water fisheries, shellfish beds, swimming beaches, groundwater recharge areas, water supply reservoirs, habitats for threatened, endangered or special concern species.

SIGN

A name, identification, description or display or illustration which is affixed to or painted or represented directly or indirectly upon a building, structure or piece of land which directs attention to an object, product, service, place, activity, person, institution, organization or business and the supporting members thereto.

SIGN FACE AREA

The entire area within the single, continuous perimeter enclosing the extreme limits of writing, representation, emblems or any figure or similar character together with any material or color forming an integral part of the display or used to differentiate such sign from the background against which it is placed. The supports, uprights or structures on which any sign is supported shall not be included in determining the sign (face) area unless such supports, uprights or structures are designed in such a manner as to form an integral part of the display. Where a sign has only two faces, the area of one side shall be the face area of the sign. Where a sign has more than two faces, the area of all the faces shall be the face area of the sign.

SIGN, BILLBOARD

Any sign that attracts attention to an object, product, service, place, activity, institution, organization or business not available or located on the lot where the sign is located.

SIGN, FREESTANDING

A sign resting upon or attached to the ground by means of an integral base or one or more poles or standards. “Freestanding signs” include both pole signs and ground signs.

DRAFT

SIGN, WALL

A sign integral with or attached to and supported by the exterior wall of a building, and projecting not more than 12 inches therefrom.

SIGN, UNDER CANOPY

A sign attached to the soffit or under the fascia of a structure, canopy, covered entrance or walkway, awning or marquee.

SIGN, FASCIA

A sign attached flat against the fascia.

SKETCH PLAN

A simple sketch of the proposed layout of streets, lots, and other features of a proposed subdivision in relation to existing conditions, including topography, prepared by the petitioner and submitted to the Planning Board for the purpose of obtaining the advice and assistance of the Planning Department Staff and approval of the Planning Board before preparation of the Preliminary Plat.

SMALL ANIMAL

Small animals are companion animals or "pocket pets," that include but are not limited to cats, dogs, hamsters, rabbits, gerbils, ferrets, fish and birds. Small animals do not include livestock such as horses, cattle, goats, pigs; or poultry such as turkeys, chickens, ducks, or geese.

SOLAR ACCESS

Space that is open to the sun and clear of overhangs or shade. Structures constructed on private property will not infringe on the rights of adjacent properties.

SOLAR ENERGY EQUIPMENT/SYSTEMS

Energy storage devices, material, hardware, or electrical equipment and conduit associated with the production of electrical energy, including any other accessory structures and buildings, light reflectors, concentrators, and heat exchangers, substations, electrical infrastructure, transmission lines and other appurtenant structures and facilities.

SOLAR PANEL

A device capable of collecting and converting solar energy into electrical energy.

SOLAR SKYSPACE

The space between a solar collector and the sun which must be free of obstructions for a solar energy system's effective operation.

SPECIFIED ANATOMICAL AREAS

1. Less than completely and opaquely covered human genitals, pubic region, or female breast below a point immediately above the top of the areola.

DRAFT

2. Human male genitals in a discernibly turgid state, even if completely and opaquely covered.

SPECIFIED SEXUAL ACTIVITIES:

1. Human genitals in a state of sexual stimulation or arousal.

2. Acts of human masturbation, sexual intercourse or sodomy.

3. Fondling or other erotic touching of human genitals, pubic region, buttock or female breast.

4. Acts of a nature involving the sexual touching of humans and animals.

SPDES GENERAL PERMIT FOR CONSTRUCTION ACTIVITIES GP-02-01

A permit under the New York State Pollutant Discharge Elimination System (SPDES) issued to developers of construction activities to regulate disturbance of one or more acres of land.

SPDES GENERAL PERMIT FOR STORM WATER DISCHARGES FROM MUNICIPAL SEPARATE STORM WATER SEWER SYSTEMS GP-02-02

A permit under the New York State Pollutant Discharge Elimination System (SPDES) issued to municipalities to regulate discharges from municipal separate storm sewers for compliance with EPA established water quality standards and/or to specify storm water control standards.

STABILIZATION

The use of practices that prevent exposed soil from eroding.

STABLE

A building or part of a building used to house horses.

STOP-WORK ORDER

An order issued which requires that all construction activity on a site be stopped.

STORM WATER

Rainwater, surface runoff, snowmelt and drainage.

STORM WATER HOTSPOT

A land use or activity that generates higher concentrations of hydrocarbons, trace metals or toxicants than are found in typical storm water runoff, based on monitoring studies.

STORM WATER MANAGEMENT

The use of structural or nonstructural practices that are designed to reduce storm water runoff and mitigate its adverse impacts on property, natural resources and the environment.

DRAFT

STORM WATER MANAGEMENT FACILITY

One or a series of storm water management practices installed, stabilized and operating for the purpose of controlling storm water runoff.

STORM WATER MANAGEMENT OFFICER

An employee or officer designated by the municipality to accept and review storm water pollution prevention plans, forward the plans to the applicable municipal board and inspect storm water management practices.

STORM WATER MANAGEMENT PRACTICES (SMPs)

Measures, either structural or nonstructural, that are determined to be the most effective, practical means of preventing flood damage and preventing or reducing point source or nonpoint source pollution inputs to storm water runoff and water bodies.

STORM WATER POLLUTION PREVENTION PLAN (SWPPP)

A plan for controlling storm water runoff and pollutants from a site during and after construction activities.

STORM WATER RUNOFF

Flow on the surface of the ground resulting from precipitation.

STORY

The portion of a building between the surface of a floor and the next floor above or the ceiling next above under a roof.

STREET

A public or private way which permits conducting of vehicular travel and/or affords a primary means of access, by vehicles and pedestrians, to abutting properties, including the entire area within the right-of-way. The term includes those ways as shown on plats filed in the office of the Erie County Clerk, whether improved or not.

STREET, COLLECTOR

A publicly dedicated right-of-way used to carry traffic from local streets and alleys to minor or major arterials, including but not limited to the principal entrance streets of a development and streets for circulation within a development

STREET, MINOR ARTERIAL

A publicly dedicated right-of-way used to carry traffic from collector streets to other areas of the Town or adjacent municipalities. Efficiency and limited-access controls are present to reduce conflicts and improve effectiveness of the roadway.

STREET, PRINCIPAL ARTERIAL

A publicly dedicated right-of-way used to carry traffic from collectors and minor arterials to other areas of the Town and Western New York region.

DRAFT

STREET GRADE

The elevation of the street measured at its crown.

STREET LINE

The right-of-way line.

STREET, LOCAL

The primary functions of such a street is to move traffic between subdivisions as well as to provide access to individual lots.

STREETS, ACCESS AND DEVELOPMENT

Streets not otherwise classified. The primary function of such streets is to move traffic within subdivisions and large developments and to provide access to individual lots.

STRUCTURE

A building or anything other than a fence which requires permanent location in or on the ground or attachment to something having such location.

SUBDIVISION

The division of any parcel of land into five or more lots, blocks or sites in any three year period, with or without streets or highways, for sale or for rent for residential lots or residential building plots. Such division shall include resubdivision of parcels of land for which an approved plat has already been filed in the office of the County Clerk and which is entirely or partially undeveloped

SUBDIVISION, CLUSTER

Any proposed subdivision requiring approval under the provisions of New York Town Law § 278.

SUBDIVISION, MAJOR

Any proposed subdivision of land into five or more lots, any subdivision proposed as a cluster development subdivision, or any size subdivision requiring any new street or extension of municipal facilities.

SUBDIVISION, MINOR

Any proposed subdivision of a parcel into four lots or fewer fronting on an existing street or road, and not involving any new street or road or the extension of municipal facilities and not adversely affecting the development of the remainder of the parcel or adjoining property and not in conflict with any provision or portion of the Zoning Map or Town Zoning Code.

SURFACE WATERS OF THE STATE OF NEW YORK

Lakes, bays, sounds, ponds, impounding reservoirs, springs, wells, rivers, streams, creeks, estuaries, marshes, inlets, canals, the Atlantic Ocean within the territorial seas of the State of New York and all other bodies of surface water, natural or artificial, inland or coastal, fresh or salt, public or private (except those private

DRAFT

waters that do not combine or effect a junction with natural surface or underground waters), which are wholly or partially within or bordering the state or within its jurisdiction. Storm sewers and waste treatment systems, including treatment ponds or lagoons which also meet the criteria of this definition, are not waters of the state. This exclusion applies only to man-made bodies of water which neither were originally created in waters of the state (such as a disposal area in wetlands) nor resulted from impoundment of waters of the state.

SWIMMING POOL

A water-filled enclosure more than 24 inches deep, either above or below ground level, designed, used and maintained for swimming.

TEMPORARY ACCESS

Provision of direct access to a street until such time as adjacent parcels are developed and planned access via a shared driveway or access development street can be implemented.

TOPLESS

Any manner of dress in which a female appears with the breast region exposed below a point immediately above the top of the areola.

TOURIST HOME

A dwelling in which overnight accommodations are provided or offered for compensation. The accommodations shall be contained within the confines of the principal building.

TOWN BOARD

Town Board of the Town of Lancaster, New York.

TRAFFIC CALMING

The combination of mainly physical measures that reduce the negative effects of motor vehicle use, alter driver behavior, and improve conditions for non-motorized street users. Examples of traffic calming devices include speed tables, diverters, neck-downs, chicanes, bump-outs, and roundabouts

TRAILER

Any structure or vehicle which is mounted or designed for mounting on wheels and designed to be towed behind a motor vehicle.

UL

Underwriters Laboratory, an accredited standards developer in the US.

UNIFORM CODE

The New York State Uniform Fire Prevention and Building Code adopted pursuant to Article 18 of the Executive Law, as currently in effect and as hereafter amended from time to time.

DRAFT

USE

The specific purpose for which land or a building is designed, arranged or intended or for which it is or may be occupied or maintained.

USE, ACCESSORY

A use which is incidental, subordinate and related to the principal use of the property, located on the same lot therewith.

USE, NONCONFORMING

Any use not permitted in the district in which it is occurring. A legal nonconforming use is a use that was legally authorized by the Zoning Code as it existed at the time the use commenced.

USE, PERMITTED

A use of property allowed by this Chapter, after compliance with all relevant provisions of the Code.

USE, PRINCIPAL

The primary function of a site, building or facility. Only one principal use is allowed per lot, except as otherwise noted in the Code.

USE, SPECIAL PERMITTED

A use which, because of its unique characteristics, requires individual consideration in each case by the Town Board before it may be permitted in the district enumerated in § 50-78 of this Chapter.

UTILITIES

All lines and facilities related to the provision, distribution, collection, transmission or disposal of water, sanitary and storm sewage, oil, gas, power, information, telecommunication and telephone cable.

WATERCOURSE

A permanent or intermittent stream or other body of water, either natural or man-made, which gathers or carries surface water.

WATERWAY

A channel that directs surface runoff to a watercourse or to the public storm drain.

YARD

An open space on the same lot with the building, unoccupied and unobstructed by any portion of the building from the ground upward, except as otherwise provided in this ordinance.

1. **YARD, FRONT**
   An open space extending the full width of the lot between the front line and the building setback line as established by this ordinance. On corner lots, the shorter line abutting streets is the front lot line.

DRAFT

2. **YARD, REAR**
The yard extending from the rearmost point of the building to the rear lot line across the full width of the lot.

3. **YARD, REQUIRED**
The minimum yard required between a lot line and building line or line of any parking, loading and stacking area or any other use requiring a yard in order to comply with the zoning regulations of the district in which the zoning lot is located. A "required yard" shall be open and unobstructed from the ground upward, except for projections on buildings as permitted in this ordinance and except for walks, landscaping and other site features.

4. **YARD, SIDE**
An open space extending from the front yard to the rear yard and of a width established by this ordinance; the width shall be measured at right angles to the side lot line. On corner lots, the shorter line abutting streets is the front lot line.

ZONING OFFICER
The Building Inspector or Code Enforcement Officer of the Town of Lancaster and his designated deputies or assistants.

Article IV. Residential Districts

§ 50-13. Agricultural Residential Districts (A-R).

In the Agricultural Residential District, the following regulations shall apply:

A. Intent. To provide areas within the Town for low-density, rural and semi-rural single-family detached residential development to preserve and promote agriculture and to accommodate farming, farm-related, and other non-intensive compatible activities.

B. Permitted structures and uses. Permitted structures and uses are set forth in Schedule A to this Chapter and are as follows:

(1) Principal uses

(a) Agricultural activities; farms and farm operations, and buildings incident thereto

(b) Beekeeping, which shall be conducted in the rear yard and shall be kept 25 feet away from any lot line.

(c) Church, synagogue, or any other place of public worship

(d) Forestry

DRAFT

(e) Kennel and the keeping of small animals, provided that:

[1] Any structures, pens or runways for the housing thereof are not less than 100 feet from any lot line;

[2] No manure or other odor- or dust-producing substance shall be stored within 100 feet of any lot line; and

[3] Manure shall be stored in tightly covered containers which shall control odor and insects.

(f) Private wildlife reservations or conservation projects

(g) Raising of livestock and poultry on lots of not less than five acres, provided that:

[1] All such animals shall be housed in an enclosure, and that fences or other structures shall keep the livestock and poultry 15 feet from the lot line;

[2] Any structures, pens or runways for the housing thereof shall be not less than 100 feet from any lot line; and

[3] No manure or other odor- or dust-producing substance shall be stored within 100 feet of any lot line.

(h) Single family detached dwelling units. In sewered areas, R district provisions shall apply. Attached or built-in garages shall be deemed part of the principal structure, except for minimum livable floor area requirement.

(i) Stables, public or private, provided that:

[1] The area of the lot is five acres or more; and

[2] The stable and all exercise tracks are located at least 100 feet from any lot line.

(j) Veterinarian or small animal hospital

(k) Tier 1 battery energy storage systems as regulated by Article XII of this Chapter.

(l) Tier 2 battery energy storage systems as regulated by Article XII of this Chapter, with a special use permit and site plan approval.

(m) Composting, with a special use permit and site plan approval.

(n) Golf courses, with a special use permit and site plan approval.

DRAFT

(o) Picnic groves, with a special use permit and site plan approval.

(p) Sand, gravel, and aggregate mining and extraction in the appropriate overlay district, with a special use permit and site plan approval.

(2) Accessory uses.

(a) Agricultural buildings, structures and facilities, as defined in Section 50-12.

(b) Greenhouses and nurseries, for public or private use

(c) Home occupations

(d) Office of a resident professional as permitted and regulated by this ordinance

(e) Private and parochial schools and day-care centers accredited, when required, by New York State, when accessory to a church, synagogue or other place of public worship.

(f) Private garages and parking areas, detached.

(g) Private wildlife reservations or conservation projects.

(h) Rooming and boarding of not more than three persons

(i) Roadside sale and display of agricultural products raised on the premises, provided that the roadside stand shall not exceed 300 square feet in net floor area.

(j) Signs as permitted and regulated by this ordinance

(k) Swimming pools

(l) Windmills for the pumping of water or the production of electricity, provided that:

[1] No tower shall be closer than 150 feet to any property line; and

[2] No tower shall exceed 100 feet in height.

(m) Solar energy facilities, with a special use permit and site plan approval pursuant to the requirements of this Chapter.

C. Design regulations for principal and accessory structures and uses are set forth in Schedule B to this Chapter.

§ 50-14. **Single Family Residential (R).**

DRAFT

In the Single Family Residential district, the following regulations shall apply:

A. Intent. To provide areas within the Town for medium-density single-family detached residential development where each dwelling unit must be located on an individual lot.

B. Permitted structures and uses. Permitted structures and uses are set forth in Schedule A to this Chapter and are as follows:

(1) Principal uses

(a) Church, synagogue or any other place of public worship.

(b) Common recreational structure or use, provided that:

[1] The land is owned by a homeowners' association or other common ownership and is maintained and used only by the members of the association or owners in common, and their families and guests;

[2] The members or common owners are residents of the subdivision within which the structure or use is located; and

[3] All buildings shall be located at least 75 feet from any adjoining residential lot line, and all other structures and uses are at least 25 feet therefrom.

(c) Single family detached dwelling units. Attached or built-in garages shall be deemed part of the principal structure, except for minimum livable floor area requirement.

(d) Tier 1 battery energy storage systems as regulated by Article XII of this Chapter.

(2) Accessory uses

(a) Greenhouses, for private use only

(b) Home occupations

(c) Office of a resident professional as permitted and regulated by this ordinance

(d) Private and parochial schools and day-care centers accredited, when required, by New York State, when accessory to a church, synagogue or other place of public worship

(e) Private garages and parking areas, detached

(f) Rooming and boarding of not more than three persons

DRAFT

(g) Signs as permitted and regulated by this ordinance.

(h) Swimming pools

(i) Solar energy facilities, with a special use permit and site plan approval pursuant to the requirements of this Chapter.

C. As noted in Section 50-4, Interpretation, any use not specifically listed as an approved as-of-right or specially permitted use is not allowed, including, but not limited to, outdoor display of merchandise, whether seasonal or otherwise, in the R District.

D. Design regulations. Design regulations for principal and accessory structures and uses are set forth in Schedule B to this Chapter.

§ 50-15. Multifamily Residential Mixed Use District (MFMU).

In the Multifamily Residential/Mixed Use District, the following regulations shall apply:

A. Intent. The intent of the Multifamily Residential/Mixed Use District is to:

(1) Provide areas within the Town for the development of attached and detached dwelling units, at higher densities where public sewers are available;

(2) Encourage development that exhibits the physical design characteristics of pedestrian-oriented, storefront-style shopping streets by allowing certain neighborhood-serving retail, service, and other uses;

(3) Encouraging mixed-use development; and

(4) Promote the health and well-being of residents by encouraging physical activity, alternative transportation, and greater social interaction.

B. Permitted structures and uses. Permitted structures and uses are set forth in Schedule A to this Chapter and are as follows:

(1) Principal uses

(a) Apparel repair and alterations and shoe repair shop.

(b) Art, dance, and music studios

(c) Attached dwelling units

(d) Banks

(e) Beauty, hair salon, or barber shop

(f) Church, synagogue or any other place of public worship

DRAFT

(g) Common recreational structure or use, provided that:

[1] The land is owned by a homeowners' association or other common ownership and is maintained and used only by the members of the association or owners in common, and their families and guests;

[2] The members or common owners are residents of the subdivision within which the structure or use is located; and

[3] All buildings shall be located at least 75 feet from any adjoining residential lot line, and all other structures and uses are at least 25 feet therefrom.

(h) Day-care center, nursery and other private schools

(i) Exercise studio or gym

(j) Finance, insurance, real estate services and travel agencies

(k) Legal, engineering, architectural, educational/scientific research, accounting, auditing and bookkeeping, and community planning services

(l) Medical and other health services

(m) Multi-family housing

(n) Office building and offices

(o) Single family detached dwelling units. In sewered areas, R district provisions shall apply. Attached or built-in garages shall be deemed part of the principal structure, except for minimum livable floor area requirement.

(p) Stores, including for bakery and confectionery shops (and manufacture if primarily for on-site sale); apparel, jewelry, and accessories; home furnishings; drugstore; liquor; antiques and secondhand goods; book and stationery; sporting goods and bicycles; home garden items; laundromat, cleaning and dyeing; photo supply, printing, and/or photocopying; florist; tobacco products; newspapers and magazines; gifts, novelties and souvenirs; optical goods; hardware.

(q) Tier 1 battery energy storage systems as regulated by Article XII of this Chapter.

(r) Two-family dwelling units

(s) Veterinarian or small animal hospital.

(t) Bar, tavern, or restaurant, with a special use permit and site plan approval.

DRAFT

(u) Business services, including sign company, window cleaning and other dwelling and building services and equipment sales and rental, with a special use permit and site plan approval.

(v) Dormitories, fraternities, and sororities, with a special use permit and site plan approval.

(w) Funeral parlors and mortuaries, with attendant or owner apartment, with a special use permit and site plan approval.

(x) Tier 2 battery energy storage systems as regulated by Article XII of this Chapter, with a special use permit and site plan approval.

(2) Accessory uses

(a) Home occupations

(b) Office of a resident professional as permitted and regulated by this ordinance

(c) Outdoor display of merchandise, provided that:

[1] Seasonal fruit and vegetable sales stands requiring a structure shall require a building permit.

[2] Seasonal fruit and vegetable sellers, hawkers, or peddler-type use, including holiday-related sales, operated from a vehicle or trailers shall be required to obtain a license as required under Town Codes.

(d) Private and parochial schools and day-care centers accredited, when required, by New York State, when accessory to a church, synagogue or other place of public worship

(e) Private garages and parking areas, detached

(f) Rooming and boarding of not more than three persons

(g) Signs as permitted and regulated by this ordinance

(h) Storage of goods and processing operations clearly incidental to the principal uses

(i) Swimming pools

(j) Solar energy facilities, with a special use permit and site plan approval pursuant to the requirements of this Chapter.

C. Design regulations for principal and accessory structures and uses are set forth in Schedule B to this Chapter.

DRAFT

§ 50-16. **Supplementary regulations for A-R, R, and MFMU districts.**

The following provisions apply to all residential districts, unless otherwise indicated.

A. Number of principal structures permitted on lots in A-R and R Districts.

(1) There shall be no more than one principal structure permitted per lot in the A-R and R Districts; however, in the A-R district, for buildings that are part of a farm operation, as defined in the New York Agriculture and Markets Law, multiple principal farm structures are permitted.

(2) No accessory structure is permitted on any lot without a principal structure.

B. All development in the A-R, R, and MFMU Districts shall comply with the provisions of the Town Code, Chapter 21, Floodplains, as applicable.

C. Swimming pools.

(1) Limits on maximum lot coverage shall apply to above ground private swimming pools only if the land area covered exceeds 80 square feet. In no event shall any private pool occupy more than 10% of the lot.

(2) All swimming pools that are fully or partially below grade level must be completely surrounded by a fence preventing all access except through the gate. The gate must be at least four feet in height and may not exceed a height of six feet. The fence shall at all times be in good maintenance and must not shut off light or air to any buildings. The fence must be at least four feet from any edge of the swimming pool, or placed on the lot line. The gate must be self-closing and must be locked while the premises are not under direct supervision of an adult. All latching and locking devices shall be a minimum of 42 inches above the base of the fence. The wall of a dwelling and/or its accessory buildings may act as an integral part of the fence, on the condition that any openings or doors on such wall be kept locked while premises are unsupervised by an adult.

(3) No swimming pool which is entirely aboveground shall be installed or maintained unless either:

(a) The ladder, stair or other access to the pool can be and is removed when the pool is not being supervised by the owner thereof. Removal can be accomplished by physically removing the access apparatus, or by raising and locking the ladder, stair or other access in a position where the bottom thereof is at least as high as the top of the pool; or

(b) The ladder, stair or other access is completely enclosed by a fence that is at least as high as the pool and in no case greater than six feet in height. Any gate in the fence shall be closed and locked when the pool is not being supervised by the owner thereof.

DRAFT

(4) No person shall discharge or cause to be discharged any water from a swimming pool over a public sidewalk, into a public street, or into a stormwater drainage system.

(5) Seasonal, temporary, and/or storable pools that are installed and removed each year require building permits and inspections on an annual basis.

D. Commercial and/or unlicensed vehicles in residential districts.

(1) Principal garaging or open storage of any commercial vehicle, as defined in this Chapter, is only permitted in the A-R District, except that one (1) commercial vehicle, the rated capacity of which shall not exceed ¾ ton, shall be permitted only if housed within a completely enclosed building.

(2) One trailer, camper-trailer, camper, recreational vehicle, or boat may be parked on a driveway in the required front yard of any residence district, provided that:

(a) It shall not obstruct clear vision under § 50-36 of this Chapter.

(b) It shall not be parked or stored within 10 feet of the front lot line.

(c) It shall not be parked or stored within five feet of any side lot line.

(d) If the stored or parked height exceeds eight feet, the vehicle shall be parked or stored in the rear yard or housed within a completely enclosed building.

(e) It shall comply with the provisions of Chapter 47, Vehicles, Abandoned of this Code.

E. Design regulations for churches, synagogues and other places of public worship and related activities.

(1) Minimum lot area: one acre.

(2) Minimum lot width: 200 feet.

(3) Minimum yards for structures and parking, loading and stacking areas.

Yard	Structures (feet)	Parking, Loading and Stacking Area (feet)
Front, from right-of-way of a dedicated street	50	15*
Side, abutting a residential district	25	25*
Rear, abutting a residential district	50	25*
Side and rear, abutting a nonresidential district	15	15*

*The entire area must be landscaped.

DRAFT

(4) Maximum lot coverage by structure: 25%.

(5) Maximum structure height (excluding bell spire): 35 feet.

(6) Boundary treatment. Fences, walls, plantings, or other screening materials must be provided for visual screening between adjacent structures and uses and parking or other areas or uses on the parcel.

F. Home occupations.

(1) A special use permit shall be required for any home occupation, pursuant to Section 50-78 of this Chapter. Such permit shall be issued by the Town Board for a period of up to two years only after a public hearing as required by the Town Law. The permit may be renewed by the Town Board upon written request by the permittee delivered to the Town Clerk, subject to an inspection by the Town Building Inspector's office to determine compliance with the permit as originally issued.

(2) Home occupation permits shall be issued upon the following conditions:

(a) Only persons residing on the premises shall be engaged in such an occupation.

(b) Suitable off-street parking shall be provided if the home occupation contemplates on-site customers.

(c) The home occupation shall be an accessory use to the principal residential use. The area devoted to the home occupation shall not exceed 25% of the ground floor area of the principal structure. The use may occur within the principal or an accessory structure.

(d) There shall be no change in the outside appearance of the building or premises or other visible evidence of the conduct of such home occupation.

(e) No equipment or process shall be used which creates noise, vibration, glare, fumes, odors or electrical interference perceptible to the normal senses off the subject lot.

(f) The Town Board may establish additional permit conditions and restrictions as it deems necessary to protect the general health, welfare and safety of the surrounding community.

Article V. Commercial Districts

§ 50-17. Light Commercial (LC).

DRAFT

In the Light Commercial District, the following regulations shall apply:

A. Intent. To provide areas within the Town for commercial uses serving the day-to-day shopping and personal service needs of a neighborhood area, for professional offices, and to ensure compatibility with surrounding residential development. This district may also serve as a buffer between residential districts and general commercial or industrial districts.

B. Permitted structures and uses. Permitted structures and uses are set forth in Schedule A and are as follows:

(1) Principal uses

(a) Apparel repair and alterations and shoe repair shop.

(b) Art, dance, or music studios.

(c) Banks

(d) Beauty, hair salon, or barber shop

(e) Commercial recreation activities

(f) Custom manufacturing shop for sale of product on premises, provided that the use does not produce offensive odors, noise, vibration, heat, glare, or dust.

(g) Day-care center, nursery and other private schools.

(h) Electrical and household appliance repair services.

(i) Exercise studio or gym

(j) Finance, insurance, real estate services and travel agencies.

(k) Grocery store

(l) Hardware, plumbing, lawn, garden, or other home improvement sales, or services

(m) Legal, engineering, architectural, educational/scientific research, accounting, auditing and bookkeeping, and community planning services

(n) Medical and other health services

(o) Motel or hotel

(p) Office building and offices

DRAFT

(q) Stores, including for bakery and confectionery shops (and manufacture if primarily for on-site sale); apparel, jewelry, and accessories; home furnishings; drugstore; liquor; antiques and secondhand goods; book and stationery; sporting goods and bicycles; home garden items; laundromat, cleaning and dyeing; photo supply, printing, and/or photocopying; florist; tobacco products; newspapers and magazines; gifts, novelties and souvenirs; optical goods; hardware.

(r) Tier 1 battery energy storage systems as regulated by Article XII of this Chapter.

(s) Veterinarian or small animal hospital.

(t) Wholesale sales.

(u) Automobile, farm equipment and trailer sales, rental, repair and services, including motor vehicle washes, with a special use permit and site plan approval.

(v) Bar, tavern, or restaurant, with a special use permit and site plan approval.

(w) Business services, including sign company, window cleaning and other dwelling and building services and equipment sales and rental, with a special use permit and site plan approval.

(x) Funeral parlors and mortuaries, with attendant or owner apartment, with a special use permit and site plan approval.

(y) Tier 2 battery energy storage systems as regulated by Article XII of this Chapter, with a special use permit and site plan approval.

(2) Accessory uses

(a) Outdoor display of merchandise, provided that:

[1] Seasonal fruit and vegetable sales stands requiring a structure shall require a building permit.

[2] Seasonal fruit and vegetable sellers, hawkers, or peddler-type use, including holiday-related sales, operated from a vehicle or trailers shall be required to obtain a license as required under Town Codes.

(b) Signs as permitted and regulated by this ordinance.

(c) Storage of goods and processing operations clearly incidental to the principal uses

DRAFT

(d) Solar energy facilities, with a special use permit and site plan approval pursuant to the requirements of this Chapter.

C. Design regulations for principal and accessory structures and uses are set forth in Schedule B to this Chapter.

D. Outdoor retail sales not related to the primary use shall require a special use permit.

§ 50-18. General Commercial (GC)

In the General Commercial District, the following regulations shall apply:

A. Intent. To provide areas within the Town for the location of commercial uses that serve community-wide needs for general and specialized goods and services, comparison shopping, and transportation-oriented commercial uses. Such uses may require larger land areas and generate large volumes of traffic and evening activity.

B. Permitted uses. Principal and accessory uses allowed in this district are set forth in Schedule A to this Chapter and are as follows:

(1) Principal uses

(a) All principal uses allowed by right and by special use permit in the Light Commercial District. No residential uses shall be permitted.

(b) Farm, lawn, and garden supply outlets and nursery facilities.

(c) Funeral parlors and mortuaries, with attendant or owner apartment

(d) Lumber and other building materials and services.

(e) Newspaper printing

(f) Gas station, with a special use permit and site plan approval.

(g) Tire, battery, and accessories store, with a special use permit and site plan approval.

(2) Accessory uses

(a) All accessory uses allowed in the Light Commercial District.

(b) Greenhouses and nurseries

C. All special use permits obtained pursuant to this section shall be issued by the Town Board for a period of up to two years. The permit may be renewed by the Town Board upon written request to the Town Clerk by the applicant and after inspection by the Town's Code Enforcement Officer, Building Inspector, or designee to determine compliance with the conditions in the permit.

DRAFT

D. Design regulations for principal and accessory structures and uses are set forth in Schedule B to this Chapter.

E. Outdoor retail sales not related to the primary use shall require a special use permit.

§ 50-19. Supplementary regulations for LC and GC Districts.

A. Lighting. Lighting system design standards shall be as follows:

(1) Exterior lighting shall be designed, sized, and located to prevent glare and hazardous light intrusion upon adjoining properties or streets, and to prevent impacts of the same upon persons or pedestrians using them. Lighting shall be limited to the extent necessary to ensure public safety.

(2) Lighting shall not be used for the purpose of advertising or attracting attention to the principal use.

(3) Lighting fixture height above grade shall not exceed 12 feet in or adjacent to a residential district or use, and in no instance shall it exceed 15 feet above grade.

B. Enclosure of waste materials. All waste materials, including garbage and trash, shall be stored in covered containers in a screening or enclosure at least as tall as the trash containers they store. Gates on enclosures shall be kept closed at all times except for when trash is being removed.

C. All development in the LC and GC Districts shall comply with Town Code Chapter 21, Floodplains, as applicable.

D. All uses except signs, landscaping, and off-street parking, loading, and stacking must be completely enclosed.

Article VI. Industrial Districts

§ 50-20. Light Industrial District (LI).

In the Light Industrial District, the following regulations shall apply:

A. Intent. To provide areas within the Town for light manufacturing and related production activities on sufficient land to permit efficient development. Such districts will be designed and located in such a way that they will neither encroach upon surrounding uses nor will surrounding uses interfere with the efficient development of a balanced employment mix within the Town or improve the tax base thereof.

B. Permitted structures and uses. Permitted structures and uses are set forth in Schedule A to this Chapter and are as follows:

DRAFT

(1) Principal uses

(a) Apparel repair and alterations and shoe repair shop.

(b) Blending, mixing, and packaging of disinfectants, insecticides, fungicides, ink, soap, detergents and related household and industrial chemical compounds, but excluding the preparation of any primary acids or other primary chemicals

(c) Compounding, manufacturing and assembly of: electrical equipment and appliances; furniture and furnishings; musical, scientific, medical, dental and photographic equipment; recreational equipment and toys; clothing and textiles; pharmaceuticals, cosmetics and toiletries; panel, sheet, tube and rod machining, extrusion, and casting, including of metal, plastic, and other materials, and related incidental activities; automobile and boating accessories from previously prepared materials; printing, book binders and engraving; food and beverage products.

(d) Custom manufacturing shop for sale of product on premises, provided that the use does not produce offensive odors, noise, vibration, heat, glare, or dust.

(e) Exercise studio or gym

(f) Experimental, research, and testing facilities, such as construction and operation of small-scale experimental and pilot plant operations.

(g) Hardware, plumbing, lawn, garden, or other home improvement sales, or services

(h) Lumber and other building materials and services.

(i) Manufacture, compounding, assembling and/or treatment of articles or merchandise from previously prepared materials.

(j) Newspaper printing

(k) Office building and offices

(l) Tier 1 battery energy storage systems as regulated by Article XII of this Chapter.

(m) Warehouse distribution centers.

(n) Automobile, farm equipment and trailer sales, rental, repair and services, including motor vehicle washes, with a special use permit and site plan approval.

DRAFT

(o) Bar, tavern, or restaurant, with a special use permit and site plan approval.

(p) Business services, including sign company, window cleaning and other dwelling and building services and equipment sales and rental, with a special use permit and site plan approval.

(q) Commercial recreation activities, with a special use permit and site plan approval.

(r) Composting, with a special use permit and site plan approval.

(s) Farm, lawn, and garden supply outlets and nursery facilities, with a special use permit and site plan approval.

(t) Gas station, with a special use permit and site plan approval.

(u) Motel or hotel, with a special use permit and site plan approval.

(v) Public storage and warehouse storage facilities, except storage of any waste regulated by the NYSDEC, with a special use permit and site plan approval.

(w) Sand, gravel, and aggregate mining and extraction in the appropriate overlay district, with a special use permit and site plan approval.

(x) Tier 2 battery energy storage systems as regulated by Article XII of this Chapter, with a special use permit and site plan approval.

(y) Tire, battery, and accessories store, with a special use permit and site plan approval.

(2) Accessory uses

(a) Greenhouses and nurseries

(b) Signs as permitted and regulated by this ordinance.

(c) Storage of goods and processing operations clearly incidental to the principal uses

(d) Retail sale of products manufactured, compounded or assembled on the premises, occupying not more than 15% of the gross floor area of the principal structures, with a special use permit and site plan approval.

(e) Solar energy facilities, as permitted and regulated by this ordinance, with a special use permit and site plan approval pursuant to the requirements of this Chapter.

(f) Storage of raw materials used in production and finished products, with a special use permit and site plan approval.

DRAFT

C. Design regulations for principal and accessory structures and uses are set forth in Schedule B to this Chapter.

D. Lighting on properties within 100 feet of A-R or R districts must be screened by fencing or greenery, or otherwise operated to prevent any significant visibility of such lighting on A-R and R properties outside of daytime hours.

§ 50-21. General Industrial District (GI).

In the General Industrial District, the following regulations shall apply:

A. Intent. To provide areas within the Town for the location of medium manufacturing and processing facilities as well as office, research and service establishments to insure the efficient development of the industrial use and compatibility with adjacent districts. This district is designed to encourage the development of a balanced employment mix within the Town and to improve the tax base.

B. Permitted structures and uses. Permitted structures and uses are as follows:

(1) Principal uses

(a) All principal uses allowed by right and by special use permit in the Light Industrial District. Residential uses shall not be permitted.

(b) Concrete products mixing and manufacturing.

(c) Metal casting and foundry products.

(d) Processing or treatment of bituminous products.

(e) Railroad freight yard.

(f) Storage of petroleum and petroleum products.

(g) Adult entertainment, with a special use permit and site plan approval.

(h) Contracting or construction services, with a special use permit and site plan approval.

(i) Salvage yards and recycling facilities, with a special use permit and site plan approval.

(j) Transfer storage site for the temporary storage of waste regulated by NYSDEC by NYSDEC-permitted waste transporters, with a special use permit and site plan approval.

(2) Accessory uses

(a) All accessory uses permitted in the Light Industrial District.

DRAFT

(b) Retail sale of products manufactured, compounded or assembled on the premises, occupying not more than 15% of the gross floor area of the principal structures.

C. Design regulations. Design regulations for principal and accessory structures and uses are set forth in Schedule B to this Chapter.

§ 50-22. Supplementary regulations for LI district

A. All manufacturing or processing activities shall be completely enclosed in buildings.

B. Outdoor storage is prohibited in the front yard, or in any yard abutting a residential district. Outdoor storage is permitted in the side and rear yards if the storage area is screened from adjacent parcels, does not exceed 16 feet in height, and is not closer than 50 feet from any property line.

C. All development in the LI District shall comply with the provisions of Town Code Chapter 21, Floodplains, as applicable.

§ 50-23. Supplementary regulations for GI district

A. Outdoor storage is prohibited in the front yard or in any yard abutting a residential district. Outdoor storage shall be screened from adjacent parcels.

B. All development in the GI District shall comply with the provisions of Town Code Chapter 21, Floodplains, as applicable.

C. Adult entertainment standards.

(1) Intent. In order to promote the health, safety, morals and general welfare of the residents of the Town, and based upon the finding that the deleterious effect of adult uses increases when such uses are concentrated, adult uses are restricted to nonresidential, nonbusiness, and noncommercial areas of the Town and requires site plan approval and a special use permit pursuant to Sections 50-75 and 50-78 of this Chapter.

(2) Design regulations.

(a) Minimum lot area: two acres.

(b) Minimum lot width: none.

(c) Minimum yards for structures, parking, loading and/or stacking.

Yard	Height of Structures (feet)	Parking, Loading and/or Stacking Area (feet)
Front, from right-of-way of a dedicated street	112	50*

DRAFT

Yard	Height of Structures (feet)	Parking, Loading and/or Stacking Area (feet)
Side, abutting a nonresidential district	112	50*
Rear, abutting a nonresidential street	112	50*
Side and rear, abutting a residential district	Not permitted	

*Entire area shall be landscaped with coniferous and deciduous trees in equal proportions at spacing not more than 25 feet on center. Trees shall have a minimum caliper of two and one-half (2 ½) inches at one foot above finished grade.

(d) Maximum building height: 12 feet.

(e) Maximum lot coverage: As uses and requirements of yard, off-street parking, loading/stacking areas and landscaping permit.

(f) Enclosure. All principal and accessory uses, except signs, landscaping and off-street parking shall be conducted within a completely enclosed structure.

(g) Any property line of an adult entertainment use shall:

[1] Not be any closer than 1,000 feet from any residential district.

[2] Not be any closer than 1,500 feet from any place of public assembly.

[3] Not be closer than 500 feet from any other adult entertainment use establishment.

(3) Prohibition regarding public observation. No adult use shall be conducted in any manner that permits the observation of any material depicting, describing or relating to specified sexual activities or specified anatomical areas from any public way. This provision shall apply to any display, decoration, sign, show window or other opening.

(4) Special use permit. In addition to the regular special use permit requirements found in this Section 50-78 of this Chapter, the following regulations apply:

(a) Application for a special use permit for adult use must specifically state that juveniles will be prohibited from entering the premises.

(b) The Town Board shall call a public hearing for the purpose of considering the request for a special use permit. At least 10 days' notice of the time and place of public hearing shall be given by publication in a newspaper of general circulation in the Town. A special use permit issued under the provisions of this section shall not be transferable.

D. Junkyard/Salvage Yard Design Standards.

DRAFT

(1) Junk and salvage yards must not be located less than 500 feet from any residential district or less than 300 feet from any commercial district.

(2) A fully enclosed building shall be provided for the housing and treatment of paper, rags, cloth and other fibers.

(3) All junkyard material and activities not within fully enclosed buildings shall be surrounded by a solid, stable fence or wall eight feet in height.

(4) All storage piles shall be so maintained as to not create a safety hazard.

(5) No storage of material shall be allowed within a required front, side, or rear yard.

(6) Any required screen fence shall be placed so that the required front, side, or rear yard is outside such fence.

E. Temporary Storage of Waste. The Town Board may issue a special use permit pursuant to Section 50-78 of this Chapter allowing operation of a transfer storage site for the temporary storage of waste regulated by NYSDEC permitted waste transporters subject to conditions including but not limited to:

(1) Any storage or facility shall be carried out on a minimum parcel of 25 acres.

(2) Any such facility shall be located a distance of at least 5,000 feet from any use which is residential in nature, at least 2,000 feet from any adjacent use which is nonagricultural and nonresidential in nature, at least 1,000 feet from any dedicated highway, and at least 2,000 feet from any surface water feature such as streams or ponds.

(3) The area shall be surrounded completely by a berm a minimum of 15 feet in height from existing ground level.

(4) The site shall include a well-maintained asphalt or concrete drive at least 20 feet in width, running from the nearest dedicated highway to the site and must provide sufficient access for heavy fire and rescue apparatus to all areas of said facility.

(5) The site shall have access to a fully functioning fire hydrant within 50 feet of storage areas and capable of supplying an adequate water supply for the purpose of fire suppression and shall be subject to acceptance and approval by the Chief in whose fire district the facility is located.

(6) A lock box or keyed access to the facility shall be made available to all emergency response personnel.

(7) The area shall have no more than three truck docks: two for deliveries and one for placement of a transport trailer, with no right of expansion. Further, the operator shall not place more than one transport trailer on site.

DRAFT

(8) A windsock shall be installed on site to reflect wind direction.

(9) Security, monitoring and alarm devices for detecting fire, smoke, and unauthorized access shall be installed in the building and the storage trailer. All such devices shall be centrally monitored 24 hours per day, seven days per week.

(10) All loading docks at the building must be of a height to accept deliveries from trucks and storage placement in the trailer so as to minimize the danger of falling containers.

(11) A safety mechanism shall be installed to secure the office area and personnel from the storage area in the event of a leak or spill.

(12) Trailers shall not be washed on site.

(13) The building shall not be washed down unless all runoff is fully contained and disposed of as directed by the Town of Lancaster's Disaster Coordinator.

(14) Loading dock bumpers shall be installed to ensure a sealed connection between the transport and delivery trucks to the loading platform in the facility.

(15) A chain-link fence with barbed wire shall be installed to enclose the parking area used by transport vehicles and/or trailers.

(16) The operator shall make available, in the manner determined by the Town's Disaster Coordinator, a complete manifest of all materials present on site at all times and the exact location of such materials.

(17) An absorbent material or "sponge" designed to prevent any accidental spills from entering the drainage system shall be installed in any floor drains and exterior storm water drains and catch basins.

(18) Any materials independently packaged that may be reactive with each other must be stored apart from each other at distances and with additional security precautions as may be required by the NYSDOT and NYSDEC.

(19) In no event shall any biological, radioactive, or explosive hazardous materials be permitted at the location.

(20) The owner/operator shall submit detailed closure plans at least 90 days prior to the plan date for closure to the Town of Lancaster, which plans shall include the proposed closure date of the facility and the plan for removal of materials and cleanup of the site. A performance bond of $1,000,000 shall be posted upon approval of the site and shall remain in effect until such time as the Town Board is satisfied that the closure of the facility has been completed in strict conformance with the plan approved by the Town Board.

Article VII. Overlay Districts

DRAFT

§ 50-24. Sand, Gravel and Aggregate Mining and Excavation Overlay District (SGA)

A. Intent. To provide areas within the Town for the excavation and/or quarrying of stone, sand, gravel, topsoil and other nonmetallic minerals (except fuel) on sufficient land areas while minimizing potential adverse impacts from such activities; to allow efficient use of said lands; and to establish minimum standards for the reclamation of lands excavated. A SGA Overlay District can be added to the Zoning Map by Town Board action or by application.

B. Applicability. No person shall conduct any mining or excavation activity of over 1,000 tons of minerals or 750 cubic yards in any 12 consecutive calendar month period except:

(1) In a SGA Overlay created under this Section and pursuant to the amendment procedure of § 50-74 of this Chapter;

(2) With a special use permit granted pursuant to § 50-78 of this Chapter;

(3) Within the A-R, LI, or GI district; and

(4) In accordance with an approved site plan pursuant to § 50-75 of this Chapter.

C. General guidelines. This section regulates excavations as permitted and regulated by Chapter 18 of the Code, "Excavations," and including all amendments thereto; cement mixing and/or concrete products manufacturing; bituminous products manufacture if it incorporates the use of aggregates for paving purposes; sanitary landfill, subject to the special use permit process more fully described in this Chapter; and stone crushing and/or washing operations. Each of the foregoing uses may only be conducted:

(1) In a SGA Overlay District.

(2) Upon issuance of a special use permit and site plan approval, and where required, of subdivision approval.

(3) Upon providing proof of issuance of all required federal and state permits.

D. Applications.

(1) Applications for rezoning to SGA Overlay District shall follow the procedures for special use permit and site plan approval set forth in § 50-78 and § 50-75 of this Chapter, and:

(a) Copies of the complete application for all required federal and state permits, and copies of such permits, if issued.

(b) A completed Full Environmental Assessment Form Part 1.

E. Overlay District Effect.

DRAFT

(1) A SGA Overlay District may be added to the Zoning Map by Town Board action under § 50-74, or by application.

(2) The effect of placing a SGA Overlay District upon the Zoning Map is to supersede the regulations of the underlying zoning district.

F. Criteria for rezoning decision. In addition to the criteria for special use permit and site plan applications set forth in § 50-78 and § 50-75, the following criteria shall be considered.

(1) A SGA Overlay shall not be placed over any lands zoned R, MFMU, LC, or GC, nor shall it be placed over an Environmental Resource Protection Overlay District as established in this Chapter.

(2) Rezoning must be consistent with the Town of Lancaster's Comprehensive Plan and all of its updates.

(3) Impacts to public infrastructure must be considered.

(4) Mining and excavation shall not be allowed on steep slopes (> 10%), wetlands, or other environmentally sensitive areas.

G. Excavation standards.

(1) All equipment used shall be constructed, maintained, and operated in such a manner as to eliminate, as far as practicable, noise, vibration, or dust which are injurious or annoying to persons living in the vicinity.

(2) No production is permitted from a hardrock open pit that would undercut the overhang; a sand or gravel pit side slope shall assume the normal slope of repose for the material being excavated.

(3) The Planning Board may require secure enclosure of the property to be rezoned.

(4) Whenever production has been abandoned for nine months, or completed, all buildings, structures (except fences), and equipment shall be entirely removed within one year of completion or abandonment.

(5) Reclamation plans shall be subject to the provisions for site plan review:

(a) Any existing operation covered by this section which has been closed down or abandoned shall within one year begin reclamation procedures.

(b) Any new permitted operations covered by this section shall file a reclamation plan for approval prior to commencement of any operations.

(c) All existing quarrying, mining or removal operations shall file a copy of the state-required permit within one year of passage of this ordinance, and a reclamation plan for all areas covered by this ordinance.

DRAFT

H. Fees. See Town Code, Chapter 30, Permit and Applications Fees. Reasonable fees shall be set and may be amended from time to time by the Town of Lancaster to process the SGA Overlay rezoning application (in addition to the standard rezoning fee, subdivision fee and site plan fee). This rezoning shall also be subject to an annual fee to pay for inspection of the site and to ensure compliance with standards and mitigation placed on the project for the duration of operation and reclamation activities.

§ 50-25. Planned Unit Development/Incentive Zoning (PUD) Overlay District

A. Authority. This section of the Zoning Law is specifically authorized by Sections 261-b and 261-c of the New York Town Law.

B. Intent. The PUD Overlay District allows for the flexible arrangements of lots, structures and uses in a well-planned and coordinated design, in furtherance of the goals and policies set forth in the Town Comprehensive Plan, including mixed uses. This section allows for a review and approval process and, where deviations from the Zoning Law are requested as part of the design, requires the provision of amenities to the Town.

C. Where authorized. The PUD Overlay District may only be created over the R, MFMU, and LC zoning districts.

D. Permitted principal and accessory uses/system of incentives.

(1) Buildings and land may be used for any lawful purpose permitted in the underlying zone, plus any other uses which the Town Board may authorize. Projects with mixed use components are favored.

(2) All development restrictions, including, but not limited to, yard size, height restriction, building coverage, and lot size, shall be determined by the Town Board in the legislation rezoning the area. The Town Board may impose any conditions or limitations that it deems necessary or desirable to ensure that the development conforms with the Town Comprehensive Plan, including limiting the permitted uses, location and size of buildings and structures, providing for open space and recreational areas, requiring acoustical or visual screening, construction sequencing, and requiring bonds or other assurances of completion of any infrastructure to be built as part of the development.

(3) The Town Board hereby creates a system of incentives and amenities consistent with the goals of the Comprehensive Plan. Incentives in the form of deviations from restrictions in the Zoning Law are permitted, provided proportional amenities are provided to the Town that achieve the goals set forth in the Comprehensive Plan, including but not limited to open space preservation/protection, bike routes and trail improvements, walkability improvements, use of green infrastructure, parks improvements, improvements to municipal services, and any other amenity that meets a specific goal of the Comprehensive Plan. Cash in lieu of amenities is also acceptable where the funds are designated to achieve a specific goal of the Comprehensive Plan. Items that

DRAFT

could, in their entirety, be required as mitigation through zoning conditions or SEQRA do not qualify as an amenity; rather, amenities are those things that the Town Board lacks the ability to impose as part of the approval process.

E. Application Process.

(1) Application. A written application for rezoning to a PUD Overlay District, in accordance with the Town rezoning process requirements set forth in this Chapter, shall be submitted to the Town along with 14 copies of a proposed site plan, site plan application, narrative, and completed full Environmental Assessment Form Part 1. Such application shall include, at minimum:

(a) A statement of purpose that includes how the proposed development meets the legislative purpose and intent of this Chapter as well as the Town's Comprehensive Plan;

(b) A description of the amenities offered and how they qualify under the requirements of this Section;

(c) Proposed use or uses;

(d) Lot, area and yard dimensions;

(e) Population and building densities together with floor area ratios;

(f) Building and architectural characteristics;

(g) Maximization of open space and recreational areas;

(h) Parking, internal traffic circulation, and external traffic impact information;

(i) Effect of the proposed development within the PUD Overlay District on adjacent properties, including property values;

(j) Effect of the proposed development on local taxation;

(k) Conceptual stormwater management;

(l) All additional requirements and data that may be required by the Planning Board or Town Board.

(m) If the project would require subdivision approval, then a subdivision application must also be submitted.

(2) Receipt and referral. Upon receipt, the Town Board shall refer the PUD Overlay District submission documents to the Planning Board for its advisory opinion. The Planning Board shall respond to the Town Board with a written report of its findings and recommendations within a time period established by the Town

DRAFT

Board, to be not less than 30 days and not more than 90 days unless modified by mutual agreement of the Town Board and Planning Board.

(3) SEQR. SEQR shall be completed as required by law, with the Planning Board providing an advisory opinion to the Lead Agency.

(4) Review and discussion. Prior to any public hearing, the Town Board may meet informally with the applicant, the Planning Board or other interested parties to discuss the PUD Overlay District proposal.

(5) Public hearing. The Town Board shall hold a public hearing, after which and upon the consideration of the recommendations by the Planning Board and other agencies, it may vote on the application. The public hearing shall be noticed and published in the same manner as for special use permits.

(6) Adoption by Town Board.

(a) The PUD Overlay District regulations are effective on a specific site, and the Zoning Map is amended, upon adoption of an approval resolution by the Town Board. The approved PUD site plan and approving resolution shall constitute the zoning regulations for the particular PUD Overlay District at issue. The Town Board may attach to its decision any additional conditions or requirements it feels are necessary to fully protect the public health, safety and welfare of the community. Any conditions imposed by the Town Board shall run with the land and shall not lapse or be waived as a result of any subsequent change in the tenancy or ownership of any or all of the area.

(b) The decision shall include specific uses, minimum area, and geometric controls to be maintained in the PUD Overlay District or in designated subareas and may stipulate project phasing and a timetable of Planning Board review.

(c) The decision shall also contain an analysis of the deviations from the Zoning Law (incentives) together with the proposed amenities. The Town Board shall consider the proportionality of the amenities and whether they meet the requirements of this Section.

(7) Limitations on approval. Within one year after the approval of a final development plan, or at such other time as may be established by the Town Board, construction of the improvements within the PUD Overlay District shall commence. Failure to comply with this provision without an extension granted by the Town Board prior to expiration shall automatically render void the final development plan approval and all permits based on such approvals.

F. Criteria for rezoning decision.

(1) Design regulations

DRAFT

(a) Minimum area. No PUD Overlay District shall have a gross land area of less than 10 acres, exclusive of existing public rights-of-way. Deviations from this requirement are permitted provided the applicant provides a compelling rationale for use of the PUD Overlay on a smaller area.

(b) Adding area. Upon application by an applicant or its successor to the Town Board, an established PUD Overlay District may be enlarged to include other contiguous areas of any size. Such areas, if separated by a public right-of-way, may be considered contiguous if, in the opinion of the Town Board, the continuity of the original PUD District is maintained or enhanced.

(2) Dimensional controls. The following controls shall apply unless specifically modified by the Town Board during the initial establishment of the PUD Overlay District:

(a) Distance between buildings on one lot.

[1] Residential or Mixed Use: front, rear and side yards shall be designed so that a building is no closer than 20 feet to any other residential building and 50 feet to any nonresidential building.

[2] Nonresidential use: front, rear and side yards shall be designed so that a building is no closer than 30 feet to any other nonresidential building and 50 feet to any residential building.

[3] Accessory structures shall be no closer than 10 feet to their principal structure and no closer than 20 feet to any other principal structure, and five feet to any other accessory structure.

(b) The minimum distance between any point on a principal building and the lot line shall not be less 10 feet.

(c) Unless the Town Board has established a minimum density pursuant to the procedures in this Section, all residential development shall provide an average density of 4,500 square feet per dwelling unit. Commercial and industrial uses shall maintain an average minimum density of 20,000 square feet per building.

(d) Maximum lot coverage for all development within a PUD District shall not exceed 35% of the gross land area.

(e) The maximum height of all principal structures shall not exceed 30 feet for residential buildings and 40 feet for commercial or industrial buildings. Accessory structures shall not exceed 15 feet.

(f) The parking and loading provisions of this Chapter shall apply unless modified by the Town Board. Shared parking and storage may be included in the calculation of overall parking compliance.

DRAFT

(g) Unless modified by the Town Board when establishing the PUD Overlay District, the supplementary regulations and site plan standards of this Chapter shall apply.

(3) Other criteria. Approval is subject to finding that the PUD Overlay District shall:

(a) Be compatible with the purposes of the zoning district in which the proposed use and development is to be located;

(b) Be consistent with adopted objectives and policies of the Town of Lancaster Comprehensive Plan;

(c) Be compatible with and offer adequate protection of surrounding property;

(d) Ensure that the proposed development is served adequately and efficiently by essential public facilities and services which are in existence or are planned;

(e) Adequately conserve significant unique or sensitive natural resources that may exist on or near the site, including but not limited to groundwater, floodplains, wetlands, streams, steep slopes, woodlands, and wildlife habitat.

(f) Protect rural character and scenic views from public locations;

(g) Ensure that farms, agri-businesses, and prime agricultural lands are adequately conserved to retain farming as an economic activity in the Town.

(h) Be of such innovative design that it warrants rezoning;

(i) Have sufficient and proper amenities as provided for in this Section;

(j) Include a proposed pedestrian and vehicular circulation system;

(k) Provide for adequate visual and acoustical privacy;

(l) Enhance landscaping, and provide for deeper buffers and increased planting along public rights-of-way, open space/recreational areas, and the overall perimeter of the project.

(m) Provide traffic mitigation measures, such as separation of vehicular, pedestrian, and/or bicycle traffic lanes, internal traffic patterns, connections to adjacent properties/interconnectivity, and other methods.

(n) Preserve open space, natural and cultural areas and include an appropriate amount of, and appropriate access to, dedicated open space; and

(o) Be placed on the most suitable sites with consideration of topography, soils, vegetation, slope, etc. and shall reduce erosion and sedimentation

DRAFT

G. Fees.

(1) See Town Code, Chapter 30, Permit and Applications Fees. A non-refundable application fee as determined by the Town Board shall be paid to the Town of Lancaster upon each application.

(2) The applicant shall reimburse the Town for all engineering and other professional fees incurred in review of the development project. The Town Board shall require the applicant to place an amount equal to the estimated cost of such professional fees in escrow held by the Town prior to the Town incurring any professional costs and may require the applicant to place additional funds in escrow should the initial funds fall below an established threshold.

§ 50-26. Environmental Resource Protection Overlay Districts (ERPOD)

A. Purpose and intent. The purpose of this Section is to provide special controls for development in significant sensitive environmental areas within the Town of Lancaster, as determined by the Town Board. These regulations are superimposed over general zoning district provisions and should be considered as additional requirements to be met by the applicant or developer prior to project approval. These regulations are in addition to the requirements for floodplain development contained in Town Code, Chapter 21, Floodplains, as well as any wetlands regulations and permit requirements promulgated by the federal or state government.

B. Establishment of districts. Upon the recommendation of the Planning Board, the Town Board may protect significant environmental resources by rezoning areas that contain known areas of wetlands, creeks and streams, and steep slopes, as shown on the Environmental Resources Map, as Environmental Resource Protection Overlay Districts (ERPOD), as follows:

(1) ERPOD-1: Wetlands Protection District.

(2) ERPOD-2: Watercourse Protection District.

(3) ERPOD-3: Steep Slopes Protection District.

(4) ERPOD-4: Woodlot Protection District.

C. Application and review procedure.

(1) Proposed development on properties located wholly or partially within an ERPOD shall be reviewed by the Planning Board as part of the subdivision or site plan review processes (see §50-38, Subdivision, and § 50-75, Site Plan Review as applicable).

(a) The Planning Board may recommend such conditions as it deems necessary to ensure the preservation and protection of the ERPOD resource and areas and compliance with the policies and provisions of this Section.

DRAFT

(b) The Town Board may refer the application for comment and recommendations to the Town Engineer or any other appropriate department or agency.

(c) The following shall be required by the Planning Board in addition to the requirements set forth in § 50-75, Site Plan Review:

[1] In ERPOD-1, Wetlands Protection District, no development shall be permitted within the 100-foot check or buffer zone for identified State wetland areas, or within 400 feet of identified Federal wetland areas. Where necessary, the provision of soils maps and up-to-date wetland delineations, as verified by applicable State and Federal Agencies, shall be utilized to confirm the presence of these areas on any site proposed for development.

[2] In ERPOD-2, Watercourse Protection District, maintaining vegetation and natural conditions along the shoreline of major creeks and streams helps control flooding, provides habitat for local fauna, and prevents shoreline erosion. A 50-foot riparian buffer area will be established from the top of the bank of any major creek or stream in the Town, and a 25-foot buffer will be established from smaller tributaries, as shown on the Environmental Resources Map.

[3] In ERPOD-3, Steep Slopes Protection District, maintaining natural slopes and keeping development located at a safe distance from such hazardous areas is in keeping with the general protection of public health and safety. A 400-foot setback shall be established from the top of any steep slope, as identified on the Environmental Resources Map. Where required, site topography maps shall be utilized to determine the location and extent of steep slopes on any property proposed for development

[4] In ERPOD-4, Woodlot Protection District, the preservation of large stands of trees protects wildlife habitat and water quality, reduces stormwater runoff and maintains corridors for the safe movement of wildlife. Site development shall be designed to avoid large areas of woodland forest. No clearcutting is permitted in properties over ¼ acre in size. All trees over six (6) inches as measured at breast height diameter, shall be preserved. To determine the extent of wooded areas on properties proposed for development, aerial photography shall be used, unless a tree survey is required by the Planning Board. When required, a tree survey shall be prepared by a professional arborist, forester or landscaper that indicates the size, species, and location of all trees that could be affected by site development. The proposed development plan shall be superimposed over an aerial image of the site to determine a site layout that will have the least impact on woodland resources. The extent of wooded areas to be

DRAFT

preserved shall extend 25 feet beyond the dripline (the outermost extent of a tree's branches) of all trees located nearest to the exterior boundary of the woodlot.

(d) The Town Code Enforcement Officer and/or other designated Town official shall have the right to periodically inspect the project to ensure compliance with the requirements of this Section.

(2) When evaluating an application for development within an ERPOD, the Planning Board shall consider:

(a) Protection of environmentally sensitive areas, as outlined in this Section.

(b) Open space/natural resource protection.

(c) Protection of trees and wildlife habitat.

(d) Opportunities for public access.

(e) Creation and maintenance of visual buffers and screens.

(3) Exemptions. Certain activities are exempt from ERPOD regulation, subject to a determination by the Town Board that such activities involve necessary normal maintenance and upkeep of property and/or involve public health, safety or emergency situations, such as:

(a) Lawn and tree care and maintenance.

(b) Removal, repair, or maintenance of structures.

(c) Repair and maintenance of septic systems, sewage facilities, or utility lines.

(d) Agricultural activities, except structural activities.

(e) Activities required by state or federal government agencies.

(f) Any emergency activity which is immediately necessary for the protection and preservation of life, property or natural resource values.Chapter

§ 50-27. **Access Management Overlay District (AMOD).**

A. Chapter 45 of the Code, adopted by the Town Board in 2008 and entitled "Transit Road Access Management," and all amendments thereof and supplemental thereto, is hereby repealed and replaced with this § 50-27.

B. Purpose. The regulations established by this overlay district are intended to assure the safe and efficient operation of State highways by establishing development and subdivision requirements applicable to properties within this District and, thereby, to:

DRAFT

(1) Provide for the full reasonable development of all properties served by traffic using State highways according to the Zoning Law.

(2) Preserve the health and welfare of the general population of the Town and such others who use or are affected by the operations of State highways.

(3) Minimize the public expenditures which might otherwise stem from poorly managed or coordinated development of properties fronting on or obtaining access from State highways.

(4) Promote the efficient flow of traffic and enhance public safety by reducing conflicting traffic movement.

(5) Preserve public investment in new and existing public improvement expenditures.

(6) Implement the policies and recommendations of the Town of Lancaster Comprehensive Plan, and the recommendations of the Transit Road Corridor Management Study (June 2004) and the ongoing Lancaster Traffic Study.

C. AMOD boundary.

(1) The requirements set out in this overlay district shall apply to properties with frontage on Transit Road, Genesee Street, Walden Avenue, and Broadway, and to properties obtaining access from or through properties on these roadways for their entire length in the Town of Lancaster, except those properties located within the Village of Depew.

(2) The requirements of this overlay district shall also apply to properties obtaining access from any road intersecting Transit Road, Genesee Street, Walden Avenue, or Broadway for a distance within 600 feet from the intersection with these roadways.

D. Applicability; conformance requirements.

(1) All subdivisions of land receiving preliminary approval after the date of adoption of this overlay district and all lots created by such subdivisions shall conform to the maximum extent practicable with the requirements and objectives of this overlay district.

(2) Any construction, alteration, or change of use on a lot existing prior to the date of adoption of this overlay district which requires site plan approval shall demonstrate conformance to the maximum extent practicable with the requirements and objectives of this overlay district.

E. Relationship to other Town requirements. The regulations contained within the AMOD are not intended to supersede the existing requirements in each underlying zoning district but are to be superimposed over such district provisions and should be considered as

DRAFT

additional requirements to be met by each applicant prior to final site plan or subdivision approval.

F. Administration; enforcement; public hearings.

(1) The Town Board, the Code Enforcement Officer, the Town Engineer, or other designee shall administer and enforce the provisions of the overlay district.

(2) Notification procedures for public hearings on zoning changes, special use permits, variances, site plan reviews or subdivision reviews within the AMOD boundaries shall follow the most recent provisions of General Municipal Law as applicable, including notification of adjoining communities and the County under 239-m and 239-nn.

G. Definitions. The terms used in this Section shall have the meanings indicated in Article III, Definitions.

H. General Requirements.

(1) Agency standards; deviations.

(a) Access and circulation shown on subdivision and site plans developed under this overlay district shall also conform to the requirements of other federal, state, and local agencies. This includes but is not limited to transportation agency standards for stopping and intersection sight distances and signal warrants.

(b) Deviations from the standards outlined in this overlay district must be based on documentation from a qualified traffic engineer that an alternative access arrangement provides equal or greater safety and mobility, and comparable or lower adverse environmental impacts. All such deviations must be requested and evaluated in accordance with the procedures and requirements for obtaining an area variance, except that justification for deviations from the standards outlined in this overlay district may not be based on self-created conditions.

(2) Access connections. Parcels created after the effective date of the overlay district do not have the right of individual access to public streets. The number of access connections is to be the minimum necessary to provide safe and reasonable access. This may be less than the number of access connections which would be allowed based solely on minimum property width requirements.

(3) Direct access; easements. New public or private streets, shared driveways or cross access may be necessary to meet the requirements of this overlay district. If access is to be provided by means other than direct access to a public street, a permanent recorded easement which runs with the land shall be executed. In addition, operating and maintenance agreements for all such means of access shall

DRAFT

be recorded with the deed. The easement shall not be modified without approval of the jurisdictional board or department.

(4) Access limitations. Parcels with frontage on more than one street may be limited to one access connection to the lowest class of street, as established in the Comprehensive Plan, serving the proposed development.

(5) Trip-generation determinations. Where trip-generation projections are required to determine standards to be applied through this overlay district they shall be based upon the most recent methods published by the ITE and/or local conditions as verified by the GBNRTC.

(6) Waivers; variances.

(a) Any applicant for access approval under the provisions of this subsection (H) (or subsection (I)) may apply for a waiver of standards if the applicant cannot meet one or more of the standards according to the procedures provided below:

[1] For waivers on properties involving land uses with less than 300 vehicle trips per day based on rates published in the Trip Generation Manual of the ITE: Where the standards in this subsection (H) (or subsection (I)) cannot be met, suitable alternatives documented by a registered traffic engineer and substantially achieving the intent of this subsection (H) (or subsection (I)) may be accepted by the Town Board, provided that all of the following apply:

[a] The use has insufficient size to meet the dimensional standards.

[b] Adjacent development renders adherence to these standards not economically feasible.

[c] There is no other reasonable access due to topographic or other considerations.

[d] The standards in this subsection (H) (or Subsection (I)) shall be applied to the maximum extent practicable.

[2] For waivers on properties involving land uses with more than 300 vehicle trips per day based on rates published in the Trip Generation Manual of the ITE: During site plan review the Town Board shall have the authority to waive or otherwise modify the standards following an analysis of suitable alternatives documented by a registered traffic engineer and the GBNRTC substantially achieving the intent of this subsection (H) (or Subsection (I)), provided all of the following apply:

[a] Access via a shared driveway or front or rear service drive is not possible due to the presence of existing buildings or topographic conditions.

DRAFT

[b] Roadway improvements (such as the addition of a traffic signal, a center turn lane or bypass lane) will be made to improve overall traffic operations prior to project completion, or occupancy of the building.

[c] The use involves the redesign of an existing development or a new use which will generate less traffic than the previous use.

[d] The proposed location and design is supported by the ECDPW Division of Highway or the NYSDOT, as applicable, as an acceptable design under the circumstances.

(b) Variance standards. The following standards shall apply when the Town Board considers a request for a variance from the standards of this article.

[1] The granting of a variance shall not be considered until a waiver under subsection (H)(6)(a) or a temporary access permit under subsection (H)(6)(c) has been considered and rejected.

[2] Applicants for a variance must provide proof of practical difficulties unique to the parcel (such as wetlands, a preexisting odd parcel shape, or narrow frontage) or that make strict application of the provisions of this subsection (H) (or subsection (I)) impractical. This shall include proof that:

[a] Indirect or restricted access cannot be obtained; and,

[b] No reasonable engineering or constriction solution can be applied to mitigate the condition; and,

[c] No reasonable alternative access is available from a road with a lower functional classification than the primary road; and,

[d] Without the variance, there is no reasonable access to the site.

[3] The Town Board shall make a finding that the applicant for a variance met their burden of proof under subsection (H)(6)(b)(2) above, that a variance is consistent with the intent and purpose of this section and is the minimum necessary to provide reasonable access.

[4] Under no circumstances shall a variance be granted unless not granting the variance would deny all reasonable access, endanger public health, welfare or safety, or cause an unnecessary hardship on the applicant. No variance shall be granted where such hardship is self-created.

(c) Temporary access; site-plan approvals; access modifications.

DRAFT

[1] The Town Board may grant temporary access and require modification and/or replacement of such access subject to the following:

[a] The required access modification or replacement shall be identified and incorporated in the site plan approval. These modifications or replacements might include those elements identified in subsection (I)(1), Access alternatives.

[b] The event(s) or condition(s) which would trigger the requirement for such access modification or replacement shall be identified and incorporated in the site plan approval. These might include, but are not limited to, development of an abutting property, the construction of access roads, reconstruction or improvements to roadways within the AMOD, or significant deterioration of traffic conditions or safety within the District.

[2] The applicant shall be responsible for such required access modification or replacement, subject to a determination by the Town Board that the costs of the required access modification or replacement should be shared.

[3] Covenants necessary to secure the ability to make such required access modifications or replacements, such as easements, shall be identified and established by the Town Board and conveyed to the Town and/or incorporated to the property deed to run with the land.

I. Specific Access Requirements

(1) Access alternatives. The Town Board may, in consultation with the Town Engineer, determine that a full-service access connection to Transit Road will create unsafe conditions or will detrimentally impact traffic operations on Transit Road and require alternative access arrangements, including but not limited to the following:

(a) Reverse access to an access or development road with no connection to Transit Road;

(b) Construction of a driveway to be shared with an abutting property or properties;

(c) The interconnection of parking areas;

(d) The establishment of paired access connections, each serving entering or exiting traffic only; and

(e) The imposition of turn restrictions, generally restricting driveways to right turns in and/or right turns out only.

DRAFT

(2) Driveway spacing and location standards.

(a) Minimum recommended spacing between driveways on the same side of roadways within the AMOD are as follows:

[1] For developments generating fewer than 150 peak-hour trips, the minimum driveway spacing is 300 feet;

[2] For developments generating between 150 and 300 peak-hour trips, the minimum driveway spacing shall be 450 feet;

[3] For developments generating over 300 peak-hour trips, the minimum driveway spacing shall be 600 feet.

(b) Driveway spacing is to be measured from the center line of each driveway.

(c) Access connections on opposite sides of the street not separated by a restrictive median shall be aligned or offset so as to reduce left-turn-overlap conflicts between vehicles traveling in the opposite direction.

(d) On the advice of the Town Engineer, the Town Board may adjust the required driveway spacing standard based on the volume of site-generated traffic, the impact of site-generated traffic on the operation of the adjacent street, or posted or operational speeds in the vicinity of the proposed site.

(e) The Town Board as part of site plan review will evaluate how proposed driveway location impacts opportunities to develop abutting properties. At a minimum such evaluation shall identify any sight distance and alignment/offset constraints and indicate whether compliance with the recommended spacing standards is practicable for abutting properties based on the applicant's proposed driveway location.

(3) Corner clearance.

(a) Driveways for corner parcels shall be located outside of the functional area of the intersection or no closer than 220 feet from the intersection, whichever is greater.

(b) If parcel boundaries or topography preclude the location of a driveway at or more than the minimum corner clearance spacing, access may be limited to right turns in and right turns out, as determined by the Town Engineer, and the driveway shall generally be located as far from the intersection as possible and in the safest possible location.

(c) On the advice of the Town Engineer, the Town Board may increase the required corner clearance spacing standard based on traffic volumes, the impact of site-generated traffic on the operation of the adjacent street, or posted or operational speeds in the vicinity of the proposed site.

DRAFT

(d) Corner clearance is to be measured along the street right-of-way from the center line of the driveway pavement to the closest edge of the existing or proposed street pavement.

(4) Clearance zone.

(a) A clearance zone of 50 feet measured from the center line of roadways within the AMOD shall be required for all properties with frontage on such roadways and for all properties with frontage on roads intersecting such roadways for a distance of 300 feet from such intersection.

(b) No permanent structure or use, including parking or other appurtenances serving traffic, holding ponds, septic systems, or any other use which by its removal or relocation would render the property economically unusable, in conflict with other federal, state or local requirements, or which would substantially diminish the value of the property shall be allowed within the clearance zone.

(c) Utilities, lighting, drainage, and pedestrian and bicycle facilities may be located within the clearance zone.

(5) Street and signal spacing along roadways within the AMOD. Intersection and signal spacing standards shall be applied, as development occurs, to preserve desirable location and alignment of streets to serve future growth and provide an efficient local transportation system.

(a) The following intersection and signal spacing standards shall apply.

[1] The minimum through street (four-way) intersection spacing shall be 1,320 feet.

[2] The minimum side street (three-way) intersection spacing shall be 660 feet.

[3] The minimum spacing between signalized intersections shall be 1,320 feet.

(b) Intersection and signal spacing standards shall be measured from the center line of each intersecting road or signalized connection to the center line of the next intersecting road or signalized connection.

(c) Intersection and signal spacing standard recommendations shall be applied or amended under advisement of the Town Engineer, the NYSDOT and/or the ECDPW, in accordance with subsection (M), Modification of Standards.

(6) Driveways to developments requiring traffic signals. In order to promote the rational development of the local transportation system, to minimize public cost

DRAFT

for necessary improvements in the future, and to maintain the safe and efficient operation of this system, the Town Board may require that:

(a) Driveways to developments requiring a traffic signal are to be located so as to serve an opposing road or driveway.

(b) The driveway connection to the signal is accessible by abutting properties, including through properties or roads where possible. The Town Board may require an easement to be provided to the Town from the driveway to abutting properties if the abutting properties or a local road may be developed in the future.

(c) The driveway connection to the signal shall be designed to local road standards and when connected to abutting properties or through roads, an easement for the driveway shall be provided to the Town on the determination of the Town Board.

(7) Special requirements.

(a) Design of driveways and internal circulation.

[1] Driveways and on-site circulation shall be designed so as to provide for the safe and efficient movement of traffic between the roadway and the site, and to eliminate the potential for the queuing of vehicles along the roadway due to congestion in or at the driveway.

[2] Driveway location, width, radii, flare, throat length, and other elements of the circulation system for developments generating more than 150 peak-hour trips shall be based upon consultation with qualified traffic, engineering and design professionals. The applicant shall reimburse the Planning Board for all such professional fees incurred in review of the project. The Planning Board may require the applicant to place an amount equal to the estimated cost of such professional fees in escrow held by the Town prior to the Town incurring any professional costs and may require the applicant to place additional funds in escrow should the initial funds fall below an established threshold.

(b) Shared access. Shared access is strongly encouraged and in some cases may be required. When required, one or more of the following options and the standards of subsection (I)(1) apply.

[1] Shared driveways. Sharing or joint use of a driveway by two or more property owners shall be encouraged. In cases where access is restricted by the spacing requirements of subsection (I)(2), Driveway spacing and location standards, a shared driveway may be the only access design allowed. The shared driveway shall be constructed along the midpoint between the two properties unless a

DRAFT

written easement is provided which allows traffic to travel across one parcel to access another and/or access the public street.

[2] Frontage roads. In cases where a frontage road exists, is recommended in either a traffic impact study, the Comprehensive Plan, or a GBNRTC traffic study, and/or is proposed in an approved site plan for an adjoining lot or parcel, access shall be provided via such frontage road, rather than by direct connection to the abutting AMOD roadway.

[3] Rear-service drives. Rear-service drives shall be encouraged, especially for locations where connection to a side street is available. In addition to access along the rear-service drive, direct connection(s) to the AMOD roadway may be allowed, provided that the driveways meet the requirements of Subsection (I)(1), Access alternatives, and (I)(2), Driveway spacing and location standards.

(c) Parking lot connections. Where a proposed parking lot is adjacent to an existing parking lot of a similar use, there shall be a vehicular connection between the two parking lots where physically feasible, as determined by the Town Board. For developments adjacent to vacant properties, the site shall be designed to provide for a future connection. A written access easement signed by both landowners shall be presented as evidence of the parking lot connection prior to the issuance of any final zoning approval.

J. Other Requirements.

(1) Landscaping.

(a) Cultivation. No person may cultivate, plant, harvest, or maintain agricultural crops, trees, bushes, or shrubs within the clearance zone.

(b) Landscaping. No person may cultivate, plant, or maintain grasses, flowers, vegetables, or other vegetation in any manner that obstructs visibility of a road or otherwise interferes with, obstructs, or renders dangerous for passage of the clearance zone.

(2) Obstructions; junk.

(a) Obstructions. No person may place, maintain, or allow any obstructions in the clearance zone other than those specifically permitted by this overlay district, by state law or rule, or by written approval of the Town Board. Items prohibited by this Section include, but are not limited to, fences, posts, structures, piled materials, hay bales, vehicles, trailers, campers, equipment, or any other items that interfere with the safe use or the maintenance of the clearance zone. No person shall park a functioning vehicle in the clearance zone in such a way as to unreasonably interfere with safe use of the road or the maintenance of the clearance zone.

DRAFT

(b) Junk. No person shall place or maintain junk in the clearance zone.

(3) Alteration of grade. No person may alter or change the depth or contour of any portion of any ditch or embankment in the clearance zone without written approval of the Town Board.

(4) Mailboxes; signs; newspaper boxes.

(a) Mailboxes. Mailboxes are permitted in the clearance zone if they do not interfere with, obstruct, or render dangerous passage for the road. Mailboxes placed within the clearance zone must comply with all state standards. The Town Board may remove and replace mailboxes at the owner's expense that do not comply with state standards.

(b) Signs. No sign of any nature may be placed or is allowed to remain in the Clearance Zone except an official traffic sign placed by a governmental authority or other signage expressly permitted by state law.

(c) Newspaper boxes. No person shall place or maintain a newspaper box in the clearance zone.

(5) Approaches; headwalls; culverts.

(a) Approaches. No person may construct or reconstruct any approach without first obtaining approval from the Town Board. A person may be required to submit a map or drawing of the existing or proposed approach when seeking approval. If approved, the person constructing or reconstructing the approach is responsible for paying all the costs related thereto.

(b) Headwalls. No person may construct or reconstruct a headwall in a way that interferes with safe use or maintenance of the clearance zone.

(c) Culverts. A person constructing or reconstructing an approach may be required to install a culvert, meeting NYSDOT specification, if the Town Board determines a culvert is necessary for suitable approach to the road and to promote adequate drainage of the clearance zone.

(6) Utility service providers. No utility service provider may install or relocate any utility without first obtaining approval from the Town Board. A utility service provider may be required to submit a map or drawing of the existing or proposed installation or relocation when seeking approval. If approved, the utility service provider installing or relocating its facility is responsible for paying all the costs related thereto.

(7) Permission, limitations. Any person receiving permission or permits as provided in this overlay district must comply with all applicable federal, state, and local laws and rules as well as all applicable Town ordinances, resolutions, specifications, regulations, and policies. Any person receiving permission or

DRAFT

permits must comply with all conditions, requirements, and limitations of the Town Board expressed as part of the permission or permit. Failure to comply with any condition, requirement, or limitation shall void the permission or permit and could place the person in violation of these overlay district regulations.

K. Nonconforming and Preexisting Access.

(1) Conditions.

(a) Access connections in place prior to the effective date of this overlay district which do not conform to the requirements of this overlay district shall be treated as preexisting nonconforming access features as long as there is no physical change in the access, change in the land use served by the access, or intensification of the land use served by the access, and subject to the following.

(b) The feasibility of bringing nonconforming access connections into compliance with the minimum driveway spacing requirements of subsection (I)(2), Driveway spacing and location standards, of this overlay district shall be evaluated under the following conditions:

[1] When a new driveway access permit is requested; or

[2] When proposed changes increase the peak-hour-site generated traffic by 50 or more peak-hour trips; or

[3] In conjunction with state or county improvement projects; or

[4] When it can be demonstrated that the number, location and design of access to the parcel are related to accidents along roadways within the AMOD or on the parcel.

(2) Improvement alternatives. If the minimum driveway spacing requirements of subsection (I)(2) cannot be met, alternative improvements to access may be evaluated at the direction of the Town Board in consultation with the Town Engineer. These may include the following:

(a) Elimination and/or consolidation of access connections.

(b) Realignment or relocation of access connections.

(c) Provision of shared driveways or cross-access connections.

(d) Provision of rear access.

(e) Restriction of vehicle turning movements.

DRAFT

(f) Changes in the design and layout of the access connection(s) and on-site parking and circulation.

(g) Traffic demand management.

(3) Feasibility evaluations. The objective of the feasibility evaluation is to identify and make recommendations to improve the operational and safety characteristics of access by bringing the number, location, spacing, and design of access connections into closer conformance with the requirements of this overlay district.

(4) Implementation. The Town Board can require implementation of access changes that will improve traffic operations, safety, or overall access.

L. Required Mitigation of Traffic Impacts.

(1) Action level. Any proposed development or subdivision projected to generate more than 150 peak-hour trips may be required to mitigate the traffic impacts of such new development or subdivision. Required mitigation shall be recommended by a qualified traffic engineer, licensed in New York State, regularly practicing in the area of traffic engineering. Final mitigation shall be based on a comprehensive traffic study completed in accordance with the procedures of the State Environmental Quality Review Act (SEQRA).

(2) Required mitigation. Required mitigation may include but shall not be limited to the installation of signals, turning lanes, medians, the use of shared driveways, cross access, or the construction of access or development streets, and/or other traffic demand management strategies.

(3) Phased mitigation. Phased mitigation may be allowed where phased development is proposed.

M. Modification of Standards

(1) Spacing standards.

(a) Deviations up to 100 feet may be authorized by the Town Board where a property is unable to meet the minimum access connection spacing standards and where the deviation will not cause a safety problem.

(b) The Town Board may also approve a second access connection for a parcel under single ownership where, due to restrictions caused by topography or natural features such as a river or channel, the parcel is effectively split for purposes of use into two separate and non-connected land areas that cannot be reasonably connected internally for access purposes.

(c) Deviations up to 150 feet may be authorized by the Town Board for intersection and signal spacing standards.

DRAFT

(2) Approval conditions. The Town Board may attach conditions to an approval of a request as deemed necessary to promote the spirit and intent of this overlay district, including but not limited to:

(a) The access may be approved as an interim access to be phased out at a future time.

(b) Certain turning movements to and from the access may be restricted at the time of construction or at a future date, based on existing or anticipated traffic volumes.

(c) The access may be required to serve existing or future adjacent property by means of a shared entrance or cross-access easement.

(d) Other conditions based on the conclusions and recommendations of a traffic impact study, GBNRTC review or review by the Town Engineer.

N. Enforcement and Penalty.

(1) Unlawful acts; corrections and penalty.

(a) An access connection to roadways within the AMOD constructed or established after the effective date of this overlay district without an approved access permit or in violation of an approved access permit shall be considered illegal. The Town Board may order discontinuance of its use and may order its removal. The party responsible for installing an illegal access shall be responsible for all costs, including any costs borne by the Town of Lancaster, associated with closure of the access, the removal of the access connection and restoration of the ditch or highway area to its previous condition.

[1] Correction order. Upon discovery of a violation of this overlay district, the Town Board may issue a correction order to the violator ordering the person to correct the violation by a specified date and time. If the violator fails to comply with the correction order by the time indicated in the order, the Town Board may provide for the correction of the violation. Issuance of a correction order does not preclude imposition of the penalty set forth in this overlay district.

[2] Immediate correction. If the Town Board determines that the violation creates an immediate threat to public safety, the Town Board will make a good faith effort to notify the violator to immediately correct the situation. If the Town Board is not able to promptly reach the violator, or if the violator fails to immediately correct the situation upon notification, the Town Board will provide for the correction of the violation.

DRAFT

[3] Cost of correction. The cost of correcting a violation shall be the responsibility of the violator. If the Town Board provides for the correction of the violation, all expenses incurred, including reasonable attorney's fees, shall be billed to the violator. If the bill is not paid by the due date, the Town Board may exercise any of its options available under applicable law to collect the amount due.

(b) Penalty. Any person who violates the provisions of this overlay district shall be guilty of a misdemeanor and subject to the penalties for such as provided in state law. Each day of existence of such violation shall constitute a separate offense.

Article VIII. Regulations Applying to All Districts

§ 50-28. Off-street parking, loading and stacking facilities.

A. Intent. Off-street parking, loading and stacking requirements and regulations are established in order to achieve the following purposes:

(1) To relieve congestion so that streets can be utilized more fully for movement of vehicular traffic.

(2) To promote the safety and convenience of pedestrians and shoppers by locating parking areas so as to lessen car movements in the vicinity of intensive pedestrian traffic.

(3) To protect adjoining residential neighborhoods from on-street parking.

(4) To promote the general convenience, welfare and prosperity of business, service, research, production and manufacturing developments which depend upon off-street parking facilities.

(5) To ensure that parking facilities are designed with careful regard to orderly arrangement, topography, landscaping, ease of access and development as an integral part of an overall site design.

(6) To provide regulations and standards for the development of off-street parking, loading and stacking facilities in accordance with the objectives of the Town's Comprehensive Plan.

B. Scope of regulations. Off-street parking, loading and stacking facilities shall be provided as a condition precedent to occupancy of all buildings:

(1) Whenever a new building is constructed or new use established.

(2) Whenever an existing building is altered and there is an increase in the number of building units, seating capacity or floor area of the building.

DRAFT

(3) Whenever an existing building is changed to a more intensive use requiring more off-street parking, loading or stacking facilities.

C. Continuation of facilities. Off-street parking, loading and stacking facilities in existence on the effective date of this ordinance shall be continued and maintained in operation and shall not be reduced below the requirements of this ordinance during the period that the principal use is maintained, unless an equivalent number of spaces shall be provided for said use in another location approved by the Building Inspector.

D. Units of Measurement.

(1) Employees. Whenever parking requirements are based on the number of employees, "employees" shall mean the maximum number of employees on duty on the premises at one time or any two successive shifts, whichever is greater.

(2) Net floor area. The total floor area less permanent concourses, stair halls, lobbies, elevator shafts, areas permanently devoted to warehousing and rooms housing equipment servicing the entire building.

(3) Fractional requirements. When units of measurement used in computing the number of required off-street parking, loading and stacking spaces result in the requirement of a fractional space, the nearest whole number of off-street parking spaces shall be required.

(4) Gross floor area. The total floor area of a building. Where the basement or cellar is not used for any activity, that area shall not be counted.

(5) Seating capacity. The number of seating units installed or indicated on plans. Seating capacity shall not be less than one unit per 15 square feet of floor area.

(6) Parking space: as required in Subsection F.

E. Schedule of parking and stacking requirements.

(1) Minimum parking requirements.

(a) Off-street parking facilities shall be provided in quantities not less than set forth in the following schedules (handicapped parking as required by the New York State Department of Motor Vehicles shall be in addition to the quantities set forth herein. Bench-type seats shall be calculated at 20 inches per lineal foot.):

[1] Dwellings.

[a] Single-family or two-family dwellings: two spaces for each dwelling unit.

[b] Multifamily dwellings: two spaces for each dwelling unit.

DRAFT

[c] Tourist homes, hotels, motels or rooming or lodging houses: one space for each unit accommodation and conference unit.

[d] Dormitory, fraternity, sorority house: one space per two occupants.

[e] Mobile home lot: two spaces per mobile home lot.

[f] Additional spaces for accessory uses:

[i] Offices for the treatment of humans: five spaces for each treatment room.

[ii] Other offices: two spaces for each room used for a home occupation office.

[2] Institutional uses.

[a] Hospitals: 2 ½ spaces for each bed.

[b] Convalescent homes or nursing homes: one space for every three beds.

[c] Independent living units for senior citizens: one space per dwelling unit.

[d] Group homes: one space for each five persons in residence.

[3] Places of assembly.

[a] Schools.

[i] Elementary and middle or intermediate schools: two spaces for each classroom, plus spaces required for assembly area.

[ii] High schools: two spaces for each classroom, plus one space for each nonteaching employee, plus spaces required for assembly area.

[iii] Colleges: two spaces for each classroom, plus one space for each nonteaching employee, plus three spaces for each four full-time students, plus spaces required for assembly area.

[b] Churches, synagogues or any other places of public worship; principal or accessory auditoriums, gymnasiums, theaters, stadiums or sports arenas and other places of public assembly other than banquet halls: one space for each three seats.

[c] Libraries, museums or art galleries: one space for each 300 square feet of gross floor area.

[d] Bowling alleys: six spaces per lane.

DRAFT

[e] Permanent recreational uses, in addition to spaces required for areas devoted to uses specified herein:

[i] Ice skating, roller rinks and gymnastics centers: one space per 250 square feet of gross floor area devoted to activity.

[ii] Health and swimming: one space per 25 square feet of gross floor area and pool area devoted to activity.

[iii] Tennis clubs: three spaces per court.

[iv] Golf courses and driving ranges: three spaces per hole; one and a half spaces per stall at a driving range.

[v] Conservation clubs: minimum 10 spaces.

[vi] Miniature golf: 1 ½ spaces per hole.

[vii] Dancing studios: one space per 50 square feet of gross floor area devoted to activity.

[f] Eating or drinking establishments, principal or accessory:

[i] Restaurant/bar and banquet hall: one space per three seats and one space per 100 square feet for customer self-service or take-out area.

[ii] Restaurants, take-out service only: one space per 200 square feet of gross floor area.

[g] Clubs or lodges: as required for assembly and restaurant facilities therein.

[h] Mortuaries or funeral parlors: 15 spaces for each parlor.

[i] In the event that any of the uses, buildings or structures described in subsections [a] through [h] of this Section are contained in or are part of a shopping center, the requirement of subsection [4][d] shall apply.

[4] Business or industrial uses.

[a] Furniture, floor-covering, or appliance stores; home furnishings and equipment sales; custom shops; wholesale businesses: one space for each 700 square feet of gross floor area, with a minimum of four spaces required.

[b] New or used car sales: one space for each 700 square feet of sales area within a building, but not less than 10 spaces for customer parking and one space for each two employees. Such spaces shall be clearly marked and shall not be used for the parking of unregistered motor vehicles.

DRAFT

[c] Gasoline stations, automobile collision, public garages or repair garages, principal or accessory: three spaces for each service bay, minimum six spaces.

[d] Shopping centers: six spaces per 1,000 square feet of net floor area.

[e] Retail stores and service, not a part of a shopping center:

[i] Food stores and discount stores: one space for each 100 square feet of gross floor area.

[ii] Other: five and a half (5 ½) spaces per 1,000 square feet of net floor area.

[f] Real estate offices: the greater of eight spaces or one and a half (1 ½) spaces per employee.

[g] Medical and dental clinics and offices: eight spaces per doctor or dentist.

[h] Other business or professional offices or banks, public and semi-public buildings, including government buildings: one space for each 175 square feet of gross floor area.

[i] Manufacturing, industrial plants, wholesale distributors, laboratories, general commercial and other services, machine shop: one space per employee.

[j] Roadside stands: minimum three spaces.

[k] All other principal uses not above enumerated or excepted: one space for each 350 square feet of gross floor space.

[5] Mixed uses. Except as otherwise provided in subsection E(1)(a)[4], where any building or lot is occupied by two or more uses having different parking requirements, the parking requirement for each use shall be computed separately to determine the total off-street parking requirement.

(2) Stacking requirements. In addition to minimum parking requirements established by subsection E(1)(a), the following stacking areas are required. The size of each space shall be 20 feet in length by nine feet in width.

(a) Rapid car wash: 35 spaces per stall.

(b) Coin car wash: five spaces per stall.

(c) Drive-in bank, accessory to bank office: eight spaces per booth, customer facility or service window.

(d) Drive-in bank, not accessory to bank office: 10 spaces per booth, customer facility or service window.

DRAFT

(e) Self-service gas stations: four spaces per pump.

(f) Other drive-in facilities: ten spaces per booth, customer facility or service window.

(3) Modifications of requirements.

(a) Variation of requirements. The parking, stacking and loading requirements applicable to a lot may be varied by the Town Board where it finds that the objectives of this Section can be met with respect to that lot and the specific activity or use to be conducted thereon with reduced facilities.

(b) Public parking facilities available. The parking spaces required hereunder may be modified by the Planning Board after receiving a recommendation from the Building Inspector where he finds that free parking areas or publicly owned parking areas are accessible within 600 feet, and where land is not available for development of off-street parking as required herein, or where public transportation is used extensively.

(c) Parking for single and mixed uses. A building occupied by one use shall provide the off-street parking spaces as required for the specific use. A building, or group of buildings, occupied by two or more uses, operating normally during the same hours, shall provide spaces for not less than the sum of the spaces required for each use. For a multiple development, parking spaces shall be provided for the total area of the building or buildings as set forth in this Section, instead of the requirements based on each separate use. For the purposes of this subsection, a "multiple development" shall be defined as four or more offices or commercial or industrial establishments or enterprises, or combinations thereof, which are located in a single building or in two or more buildings, developed as a part of a single integrated development.

(d) Joint use of parking facilities.

[1] Churches, civic clubs, community centers, auditoriums, lodge halls, gymnasiums and stadiums may make arrangements with business establishments which normally have different hours of operation for sharing up to, but not more than, 50% of their requirements in nearby parking areas which are accessory to such business uses; provided, however, where there is a sharing of facilities by different owners or tenants, there shall be an agreement covering a period of time as may be required by the Town Board; and provided, further, that should any of the uses be changed or the facilities discontinued, then the required spaces for the use or uses remaining shall be provided elsewhere as a condition precedent to the continued use of said building or buildings.

DRAFT

[2] Where churches, civic clubs, community centers, auditoriums, lodge halls, gymnasiums and stadiums share parking facilities with nearby business establishments, such parking facilities shall be located within 250 feet from the property line of said use.

(e) Accessory uses. No off-street parking shall be required for uses accessory to hospitals or convalescent or nursing homes or for an accessory restaurant used primarily for students, patients, tenants or employees occupying a principal use.

F. Design regulations.

(1) Parking area dimensions. Parking areas shall be designed in dimension in accordance with the following:

(a) Minimum stall shall be 9 feet by 20 feet.

(b) Parallel (curbside) spaces shall be 8 feet by 22 feet.

(2) Location of off-street parking facilities.

(a) Residential districts and uses.

[1] Enclosed or open parking facilities as required shall be provided on the same lot as the dwelling unit served.

[2] Commercially licensed motor vehicles used solely by the occupant of the premises. See § 50-16(D)

(b) Civic uses and places of assembly. Driveways and parking areas serving churches, clubs, community centers and other public facilities within or adjacent to a residential district may not be located within required side and rear yards and driveways only may be within the front yard. Driveways and parking areas shall be located not less than 25 feet from any adjacent residential lot lines.

(c) Business and industrial districts.

[1] In all business and industrial districts, off-street parking, loading and stacking facilities shall be provided on the same lot as the principal use or on another lot zoned business or industrial, the nearest point of which shall be within 250 feet from the nearest entrance of the building served.

[2] Restricted parking lots permitted only in R and MFMU Districts. The Town Board may direct the Building Inspector to issue a permit for the parking, loading or stacking areas in such residential districts if, after public hearing advertised in the manner required by law and

written notification to property owners within a radius of 500 feet, and after receiving a recommendation from the Planning Board, the Town Board finds that the proposed parking, loading or stacking area in an R or MFMU District to be accessory to a business use:

[a] Will not increase the congestion on adjoining residential streets in such a way as to promote a traffic hazard or a nuisance to adjoining residents;

[b] The proposed lot will be properly screened, lighted and designed so as to prevent nuisance to adjoining residents;

[c] The proposed lot will be landscaped as required by this ordinance;

[d] The lot will be suitable for the proposed use;

[e] The lot shall not provide more than 25% of the required parking, loading and stacking area;

[f] At least 100 feet of said lot shall abut or be directly across the street or alley from the business use to which it is accessory;

[g] The lot shall not extend more than 250 feet from the nearest property line of the business district;

[h] The lot shall be used for the purpose of passenger automobiles only, and no commercial repairs, sales or services shall be conducted thereon; and

[i] Driveways and parking areas shall be located not less than 25 feet from any adjacent residential lot line.

[3] Parking limitations at automobile service facilities. Unenclosed parking of motor vehicles at automobile service facilities shall be limited to four vehicles and no vehicle shall remain so parked in excess of 24 hours.

[4] Parking, stacking and loading area improvements applicable to all districts. Parking, stacking and loading areas and access driveways shall be designed, graded, constructed, altered and maintained as follows:

[a] Grading and paving. Parking, stacking and loading areas and access driveways shall be graded and drained so that the surface water shall not be allowed to flow onto adjacent properties. Parking areas and driveways shall be constructed as required by the Town's adopted Building Code, as amended.

[b] Features. Parking, stacking and loading areas shall be arranged, marked and maintained as shown on the parking, loading and stacking plan approved as a part of the site plan in order to provide for orderly and safe parking, loading and

storage of vehicles. The Planning Board may also require structural or landscape features, including without limitation bumper guards, curbs, walls or fences to further carry out the objectives of this ordinance. A compact evergreen hedge, shrubs or other screening by a substantially solid fence between parking areas and the side or rear lot line of a residential district may also be required in accordance with the standards established in other sections of this Code.

[c] Illumination. Parking, loading and stacking areas shall be illuminated only to the extent necessary to ensure the public safety. Illumination shall not be used for the purpose of advertising or attracting attention to the principal use. Lighting features shall be designed, sized and located so as not to cast direct rays upon adjoining premises or cause glare hazardous to pedestrians or persons using adjacent public streets.

[d] Pedestrian walks. Pedestrian walks between parking areas and buildings shall be provided to assure pedestrian safety.

[5] Driveways to parking areas. Entrance and exit driveways serving parking facilities, drive-in businesses, fee parking lots, and public parking lots shall be provided in location, size and number so as to interfere as little as possible with the use of adjacent property and the flow of traffic on the streets to which they connect.

G. Loading facilities. Loading and unloading facilities shall be provided and maintained as long as such building is occupied or unless equivalent facilities are provided in conformance with the regulations of this Section.

(1) Allocation of use. Space required and allocated for any off-street loading facility shall not be used to satisfy the space requirements for off-street parking or stacking. An off-street loading space shall not be used for repairing or servicing of motor vehicles.

(2) Location of facility. All required loading facilities shall be related to the building and use to be served to provide for loading and off-loading of delivery and other service vehicles and shall be so arranged that they may be used without blocking or otherwise interfering with the use of access-ways, parking or stacking facilities, public streets or sidewalks. A required loading space shall not face or be visible from the frontage street and shall not be located in a required front yard, or a required side or rear yard if adjoining a residential district.

(3) Access driveways. Each required off-street loading space shall be designed for vehicular access by means of a driveway, or driveways, to a public street in a manner which will least interfere with adjacent traffic movements and interior circulation.

(4) Minimum size criteria. A required off-street loading space shall be at least 12 feet wide by at least 20 feet in length. The above area shall be exclusive of the

DRAFT

maneuvering space, and each loading facility shall have a vertical clearance of at least 14 feet.

(5) Schedule of required loading facilities. Off-street loading spaces shall be provided as required herein for the following uses:

Use	Gross Floor Area of Single Enterprise Building or per Enterprise Within a Building (square feet)	Required Number of Spaces
Retail stores and services, all types	Under 5,000	1
	5,000 to 20,000	2
	20,000 to 50,000	4
	50,000 to 100,000	6
Printing, publishing, warehouses and storage establishments	Under 40,000	2
	40,000 to 100,000	4
Manufacturing and processing of products	Under 20,000	2
	20,000 to 40,000	4
	Each additional 25,000	1 additional

§ 50-29. Landscaping.

A. Intent. It is the purpose and intent of this Section to:

(1) Protect and promote the public health, safety and general welfare by requiring the landscaping of multifamily residential and all nonresidential developments, including parking areas.

(2) Establish minimum standards and criteria for the landscaping of multifamily residential and all nonresidential developments, to dissuade the unnecessary clearing and disturbing of land, and to preserve the natural flora, replace removed flora, or plant new indigenous flora.

(3) Reduce the effects of wind and air turbulence, heat, noise, and the glare of automobile lights.

DRAFT

(4) Relieve the blighted appearance of parking areas and provide unpaved areas for the absorption of surface waters.

(5) Reduce the level of carbon dioxide and return oxygen to the atmosphere.

(6) Prevent soil erosion.

(7) Provide shade.

(8) Conserve and stabilize property values and facilitate a convenient, attractive and harmonious community.

B. General provisions.

(1) Developments of attached dwelling units in the MFMU Districts and all nonresidential developments subject to site plan review shall meet the requirements of this Section. A landscape plan prepared by a licensed professional shall be submitted as a part of this review procedure.

(2) The landscape plan shall be drawn to scale, including dimensions and distances, and shall clearly delineate existing and proposed structures and uses, parking areas, access aisles, drainage pattern, and the location, size and description of all landscape materials existing and proposed, including all trees and shrubs; shall indicate any existing plant materials that are to be removed; and shall include any such other information as may be required by the Building Inspector and the Planning Board.

C. Standards and criteria.

(1) A minimum ground area of not less than 8% of the total lot area shall be landscaped.

(a) Landscaped islands within parking lots should be constructed as below-grade water gardens, vegetated appropriately, to provide attractive and functional enhancements to water quality, air quality, and aesthetics.

(b) Vegetation installed within a landscaped area shall include a minimum of 70% native species and shall be managed to remove any and all invasive plants during the lifetime of the development.

(2) Landscaping shall be spread across the site, not in one sole location.

(3) Not less than 8% of the interior of a parking area designed for 20 cars or more shall be devoted to the required landscaped area and shall be distributed as landscaped islands every 10 parking spaces or every 100 feet.

(4) Landscaping shall provide privacy and screening for adjacent land uses, with visual, noise and air quality factors considered.

DRAFT

(5) Vegetation shall be comprised of native species compatible with soil conditions on the development site and the regional climate.

(6) Existing natural features and vegetation shall be preserved and incorporated in the landscaped area wherever possible.

(7) The primary emphasis of the landscape treatment shall be on trees, and efforts shall be made to preserve existing trees. Shrubbery, hedges, grass and other vegetation should be used as well but must not be the sole landscaping.

(8) All buildings shall incorporate foundation plantings wherever possible.

(9) The interior dimensions of any landscaped area or median shall be a minimum of seven feet wide to ensure the proper growth of materials planted therein.

(10) The removal of any one tree on a development site identified for preservation must be followed by the planting of two trees elsewhere on the site. All trees planted shall have a minimum caliper of two and one-half (2 ½) inches six inches above the ground.

(11) Artificial plantings or vegetation is not be permitted.

(12) Parking, loading and stacking areas and driveways located adjacent to residential districts shall be landscaped by screening and/or buffering. Such screening and/or buffering shall be designed so that a person standing on the adjacent residential parcel on the minimum setback line, five feet above the average finished grade, would not be able to see any uses, activities or automobile lights originating from the area. This standard may be met by using fencing, plant materials, earthen berms or combinations thereof within the required side and rear yards.

D. Parking credits for landscaping. The Planning Board, as a part of site plan review, may reduce the minimum number of off-street parking spaces required by this ordinance by not more than 10%, provided that the land area so removed is used exclusively for landscaping, but is not necessary to meet the minimum landscaping area required. The Planning Board may later determine that the land area so removed is needed to provide necessary off-street parking and may order installation thereof. Failure to comply with such an order within the time fixed thereby shall constitute a violation of this ordinance.

E. Maintenance and enforcement. All landscaped areas required and/or permitted by this Section shall be maintained and preserved according to the plan as approved or amended by the Planning Board. Dead vegetation of any variety must be replaced within the next planting season by plantings of a similar nature.

§ 50-30. **Signs.**

A. Intent. Sign regulations, including provisions to control the type, design, size, location, motion, illumination and maintenance thereof, are designed to achieve the following purposes:

(1) To protect property values, create a more attractive economic and business climate and protect the physical appearance of the community from the effects of inharmonious, bizarre, and out-of-scale signs.

(2) To preserve the scenic and natural beauty of designated areas and provide a more enjoyable and scenic community.

(3) To reduce signs or advertising distractions or obstructions that may contribute to traffic accidents.

(4) To provide reasonable, yet appropriate, conditions for advertising goods sold or services rendered in business districts by relating the size, type and design of signs to the type of establishment.

(5) To control signs so that their appearance will be aesthetically harmonious with the overall design of the area.

(6) To reduce hazards that may be caused by signs overhanging or projecting over public rights-of-way.

(7) To curb the deterioration of natural beauty in the community's environment.

B. Definitions. The terms used in this Section or in documents prepared or reviewed under this Section shall have the meanings indicated in Article III, Definitions.

C. Exceptions. For the purposes of this ordinance, the term “sign” does not include:

(1) Signs erected and maintained pursuant to and in discharge of any governmental function.

(2) Signs prohibiting trespassing.

(3) Integral, decorative or architectural features of buildings, except letters or trademarks.

(4) Signs not exceeding four square feet per face directing and guiding traffic and parking on private property and bearing no advertising.

(5) Signs not exceeding one square foot per face advertising the cost of gasoline when attached to a gasoline pump or service island canopy.

D. General regulations. The prohibitions contained in this subsection shall apply to all signs and use districts.

(1) No sign shall be used to attract attention to an object, product, place, activity, institution, organization or business not available or located on the premises where the sign is located.

DRAFT

(2) Illumination. Any illuminated sign or lighting device shall employ only lights emitting a light of constant intensity, and no sign other than that part used to report time, temperature, stock market and/or news reports shall be illuminated by or contain flashing, intermittent, rotating or moving light or lights. In no event shall any illuminated sign or lighting device be placed so as to permit the beams and illumination therefrom to be directed upon a public street, highway, sidewalk or adjacent premises so as to cause glare or reflection that may constitute a traffic hazard or nuisance. The full number of illuminating elements of a sign shall be kept in working condition or immediately repaired or replaced. Overhead wires or exposed wires on a sign or its supporting members are prohibited.

(3) Signs on public property. No sign shall be placed in any street right-of-way or on other public property unless specifically authorized.

(4) Roof signs. No signs, except such directional devices as may be required by the Federal Aviation Agency shall be placed, inscribed or supported upon or above the highest part of the roofline.

(5) Temporary signs. No exterior portable or temporary signs shall be erected, used or maintained without a permit issued by the Building Inspector for the following purposes only:

(a) New business enterprises which are awaiting erection of permanent signs, for a period not exceeding 30 days.

(b) Business enterprises which have lost the use of an existing sign by reason of fire or other catastrophe, for a period not exceeding 30 days.

(c) Limited activities in connection with the principal uses or activity on the premises, for a period not exceeding 30 days per permit and not exceeding 120 accumulated days per calendar year.

(d) Signs advertising the price of merchandise displayed outdoors, excluding farm products grown on the premises, not exceeding 32 square feet in face area.

(6) Banners, etc. No banners, posters, pennants, ribbons, streamers, spinners or other similar moving, fluttering or revolving signs or devices or strings of lights shall be permitted.

(7) Obstructions. No sign shall create a traffic hazard by obstructing the view at any street intersection or by design resemblance through color, shape or other characteristics to common traffic control devices. No freestanding sign having the lowest member, excluding the pole, less than eight feet above the finished grade shall be allowed on corner lots in a triangle formed between points on the front and side lot lines 35 feet from the intersection.

DRAFT

(8) Maintenance of signs. All signs and sign structures shall be maintained in good repair and condition. Signs and their supporting structures which no longer serve the purpose for which they were intended or which have been abandoned or are not maintained in accordance with this ordinance and other applicable regulations of the Town, shall be removed by the owner, lessee or user thereof, the permit holder or owner, lessee or user of the premises upon which it is located.

(9) Nonconforming signs.

(a) Signs, including billboards, conforming to the regulations prevailing prior to the effective date of this amendment, but which do not conform with the regulations herein or subsequent amendments thereto, shall be nonconforming signs. Any sign or part thereof which has been blown down, destroyed or otherwise taken down for any purpose other than repair, shall not be rebuilt, re-erected or relocated unless it complies with the provisions of this Section and other applicable regulations.

(b) Where signs individually or collectively in a multiple development are nonconforming, one or more new wall and canopy/fascia signs complying with the provisions of subsection F(2)(c)[1] may be erected whenever the use or occupancy of an individual establishment or enterprise changes.

E. The following signs are permitted in all districts as accessory uses or structures, without a use permit:

(1) Sale, lease or rental. One sign for each building or lot advertising the sale, rental or lease of the premises or part thereof on which the sign is displayed, not exceeding six square feet in residential districts and 32 square feet in business and industrial districts. Illumination shall not be permitted.

(2) Address. One sign indicating the name and address of the occupants of a dwelling not exceeding two square feet in area. An address sign shall not be permitted if a sign permitted for the office of a resident professional is in use.

(3) Project name. One sign indicating “project name” and the names of the architect, engineer, contractor and participating public and governmental agencies and officials, placed on premises where construction, repair or renovation is in progress, not exceeding 32 square feet in face area, 15 feet in height or located not less than 25 feet from the lot line and 75 feet from any dwelling not within the project. Such sign shall be permitted for a period not to exceed one year.

F. Signs permitted in districts as accessory structures or uses requiring a use permit.

(1) Residential districts. The following signs shall be permitted in residential districts in addition to those specifically permitted within the individual districts:

(a) One permanent subdivision non-illuminated identification sign not exceeding 32 square feet in area and four feet in height, indicating the name

DRAFT

of the subdivision or residential development. Said sign may be located in the public right-of-way if authorized by the Town Board, after review by the Planning Board and Highway Superintendent.

(b) In the MFMU district, one permanent non-illuminated identification sign indicating the name, owner or manager of the development, not exceeding 32 square feet in face area and six feet in height above the finished grade, shall be permitted on a major street which the development abuts, but not less than 25 feet from any lot line.

(c) One sign or bulletin board, which may be illuminated, not exceeding 32 square feet in face area, located on the premises of a public, charitable or religious institution shall be permitted, but not less than 25 feet from any lot line, and no more than 6 feet in height above the finished grade.

(2) Business and industrial districts. Signs, which may be illuminated, shall be permitted in business and industrial districts subject to the following regulations:

(a) Total maximum face area of all signs other than temporary or portable signs permitted shall be as indicated in the following table. The total maximum face area of all signs permitted for establishments or enterprises occupying a building shall be related to the length of the building facing the nearest street. Where a building fronts on more than one street, the frontage shall not exceed the length of the longest side on one street.

TOTAL MAXIMUM SIGN FACE AREA
(square feet)

Building Frontage (feet)	Less Than 40	40 to 80	81 to 120	121 to 160	161 to 200	201 to 240	241 to 280	281 to 320	321 to 360	361 and Over
MFMU	40	80	120	160	200	240	280	320	360	400
LC/GC	60	120	180	240	300	360	420	480	540	600
LI/GI	40	80	120	160	200	240	280	320	360	400

(b) The area of a pictorial design, illustration, forms of humans, animals, products and trademarks shall be charged against the maximum sign face area permitted.

(c) Types and numbers of signs permitted within total maximum face area; design requirements.

[1] Wall signs. Wall signs shall be permitted for each separate establishment or enterprise occupying a building or unit thereof, but shall not project beyond the ends of the building or its parapet or the highest point of the roof, whichever is higher.

[2] Ground signs. One ground sign for each multiple development as hereinafter defined in individual building not a part of such development shall be permitted. Such signs:

DRAFT

[a] Shall be no higher than four feet above the average finished grade.

[b] Shall have a total face area not exceeding 100 square feet.

[c] Shall be located not less than 25 feet from any adjacent business or industrial lot or 50 feet from an adjacent residential lot or 15 feet from a street right-of-way.

[3] Pole signs. One pole sign for each individual building not a part of a multiple development as hereinafter defined and regulated shall be permitted in the LC, GC, LI, and GI Districts only.

[a] Such signs shall be supported wholly by a pole or poles.

[b] Such signs shall not exceed 25 feet in height nor shall the lowest part of the sign be less than eight feet from the finished grade of a paved walk, drive or parking area.

[c] Such signs located not less than 50 feet from an adjacent residential lot.

[d] Such signs shall not project over any public right-of-way or encroach upon the property of another.

[e] The maximum total face area shall be determined by the street frontage of the lot as indicated in the following table. Where the lot fronts on more than one street, the frontage shall be the length of the longest side. Total pole sign area shall be charged against the maximum face area indicated in subsection F (2) above.

TOTAL MAXIMUM SIGN FACE AREA OF POLE SIGNS (square feet)

Street Frontage (feet)	Under 200	200 to 349	350 to 499	500 to 750	Over 750
LC	32	64	96	128	160
GC/LI/GI	64	96	128	160	192

[4] Under canopy/fascia signs. Not more than two signs for each establishment or enterprise shall be permitted. However, a fascia sign and an under canopy sign suspended from and parallel to the fascia shall not be permitted. Such signs:

[a] Shall identify only the name and/or type of establishment and/or address.

[b] Shall have a vertical dimension not exceeding 18 inches.

[c] Shall not have any portion of the sign less than eight feet above the finished grade.

DRAFT

[d] Shall not exceed nine square feet in face area for a single face.

[5] Multiple development.

[a] For the purposes of this subsection, a "multiple development" shall be defined as four or more offices or commercial or industrial establishments or enterprises, or combinations thereof, which are located in a single building or in two or more buildings developed as part of a single integrated development.

[b] In multiple developments, each individual establishment or enterprise shall be permitted to have wall, under canopy/fascia and ground signs subject to the regulations herein and one pole sign advertising the name of the development only. The face area of the pole sign may be at least 96 square feet regardless of the street frontage specified in subsection F(2)(c)[3](e) above and shall be in addition to the maximum face area otherwise allowed.

G. Billboards. Billboards are not permitted.

H. Application for use permits.

(1) Except as otherwise provided herein, a use permit required by and issued pursuant to the provisions herein shall be valid for a period of five years from the date thereof. Prior to the expiration of the five-year period, the owner of such sign shall apply to the Building Inspector for renewal of the use permit. If the Building Inspector, after inspection, finds that the sign is in good repair and conforms to the original permit, he shall issue a renewal permit which shall be valid for a further period of five years. Application for further renewals shall be made every five years in accordance with these provisions. Any sign for which a use permit has expired shall be removed.

(2) No sign erected and permitted pursuant to a use permit as required or any sign erected and existing prior thereto shall be altered, rebuilt or modified unless it conforms to the requirements hereof and a new use permit therefor is issued.

(3) If the use permit for a sign has expired or if, after inspection upon application for a renewal use permit or at any other time, the Building Inspector finds that a sign is not in good repair or does not comply with the use permit issued or with the provisions of subsection D(8) above, he shall order the owner or lessee of the premises upon which it is located, the owner and user of the sign, and the holder of the use permit to repair it or bring it into compliance with the use permit, as the case may be, or remove the same within 30 days following the date of personal service or mailing thereof. Such order shall be written and served personally or by certified mail directed to the last known address of the owner, lessee, user or holder. Failure to comply with such an order shall constitute a violation of this ordinance.

(4) A building permit issued for the erection, alteration, modification or repair of any sign conforming to the requirements of this ordinance shall constitute the use

DRAFT

permit herein required. The term of the use permit shall not be limited by any restriction contained in the building permit for commencement of the work thereby authorized.

(5) Upon application for a sign use permit or renewal thereof, a fee of $10 shall be paid in addition to all fees required under the Building Code.

§ 50-31. **Nonconforming uses.**

A. Intent. Within the districts established by this ordinance or amendments that may be adopted there exist lots, structures, uses of land and characteristics of use which were lawful before this ordinance or amendments thereto were passed, but which would be prohibited, regulated or restricted under terms of this ordinance or future amendments. Regulations for the continuance, maintenance, repair, restoring, moving and discontinuance of nonconforming lots, structures, land and uses are established for the following purposes:

(1) To permit these nonconformities to continue, but to minimize any adverse effect on the adjoining properties and development;

(2) To regulate their maintenance and repair;

(3) To restrict their rebuilding if substantially destroyed;

(4) To require their permanent discontinuance if not operated for certain periods of time; and

(5) To require conformity if they are discontinued, to bring about eventual conformity in accordance with the objectives of the Comprehensive Plan and Zoning Ordinance of the Town.

B. Nonconforming lots of record.

(1) In any residential district in which single-family detached dwellings are permitted, a single-family detached dwelling and customary accessory structures may be erected on any single lot of record at the effective date of adoption or amendment of this ordinance, notwithstanding limitations imposed by other provisions of this ordinance. Such lot must be in separate ownership and not of continuous frontage with other lots in the same ownership.

(2) This provision shall apply even though such a lot fails to meet the requirements for area or width, or both, that are generally applicable in the district, provided that yard dimensions and requirements other than these applying to area or width, or both, of the lot shall conform to the regulations for the district in which such a lot is located. Variance of yard requirements shall be obtained only through action of the Zoning Board of Appeals.

DRAFT

(3) If two or more lots or combination of lots or portions of lots with continuous frontage in single ownership are of record at the time of passage or amendment of this ordinance, and if all or part of the lots do not meet the requirements established for width and area, the lands involved shall be considered an undivided parcel for the purposes of this ordinance. The provisions of this Section shall not apply if any portion of said parcel shall, after the adoption of this ordinance or amendment, be used or divided in a manner which prevents or diminishes compliance with the requirements established by this ordinance or amendment thereto.

C. Nonconforming uses and structures.

(1) Except as hereinafter authorized, no nonconforming use of land shall be enlarged or increased nor extended to occupy a greater area of land than was occupied at the effective date of adoption or an amendment of this ordinance; nor shall any existing conforming structure devoted to a use not permitted by this ordinance in the district in which it is located or a nonconforming structure itself or its use if nonconforming be enlarged, extended, constructed, reconstructed or moved, except in changing the use of the structure to a use permitted in the district in which it is located or to make the structure conforming.

(2) Restoration of a damaged use or structure.

(a) If a nonconforming use or structure is destroyed or damaged by fire, other casualty, act of God or by the public enemy to the extent of less than 50% of its value immediately prior to the occurrence, it may thereafter be reconstructed or repaired and occupied. If a nonconforming use or structure in the nature of a two-family dwelling is destroyed or damaged by fire, other casualty, act of God, or act of the public enemy even where the damage is greater than 50% of the value prior to the occurrence, it can thereafter be reconstructed, repaired, renovated and reoccupied as such nonconforming use. In all other cases, the nonconforming use shall be terminated and any nonconforming structure shall be terminated and any nonconforming structure shall be demolished. Application for a building permit to repair, replace or reconstruct a partially destroyed or damaged use or structure as herein authorized must be made within one year of the occurrence, and the repair, replacement or reconstruction must be completed within six months following the issuance of the permit, or the nonconforming status of the use or structure shall be terminated, and any nonconforming structure then remaining shall be demolished.

(b) Nonconforming uses may be enlarged up to 25%, provided that no enlargement shall exceed 25% of the size of the use at the date the use was rendered nonconforming.

DRAFT

(3) Superseding a nonconforming use by a permitted use. Any structure and/or land in and/or on which a nonconforming use is superseded by a permitted use shall thereafter conform to the regulations of the district.

(4) Moving a nonconforming use or structure. A nonconforming use or structure shall not be moved for any reason other than in conformance with the regulations for the district in which it is located after it is moved.

(5) Discontinuing or abandoning a nonconforming use or structure.

(a) A nonconforming use or structure discontinued or abandoned for 12 consecutive months, or for 18 months during any three-year period, shall not thereafter be used or occupied, except in conformity with the regulations of the district in which it is located.

(b) Discontinuance of the active and continuous operation of a nonconforming use, or a part or portion thereof, for a period of 12 consecutive months or 18 months during any three-year period, is hereby construed and considered to be an abandonment of such nonconforming use, regardless of any reservation of an intent not to abandon same or of an intent to resume active operations. If actual abandonment in fact is evidenced, by the removal of buildings, structures, machinery, equipment and other evidence of such nonconforming use of the land and premises, the abandonment shall be construed and considered to be completed within a period of less than 12 consecutive months and all rights to reestablish or continue such nonconforming use shall thereupon terminate.

(6) Nonconforming parking, loading and stacking facilities. A structure, use or occupancy existing lawfully at the time this ordinance or any amendment thereto becomes effective, but which does not conform with the off-street parking, loading and stacking regulations, may be occupied or continued without such parking and/or loading spaces being provided. Any such spaces that may be provided thereafter shall comply with the regulations of this ordinance. If an existing structure, use or occupancy is altered so that there is an increase of the number of dwelling units, seating capacity or floor area, or if the use or occupancy is changed to one requiring more off-street facilities, then off-street parking, stacking and loading spaces shall be provided at least equal to the number required for the increased area for the structure or use in accordance with all provisions of this ordinance.

D. Repair and maintenance.

(1) On any nonconforming structure or portion of a structure containing a nonconforming use or occupancy, ordinary repair work may be done, and repairs or replacements of non-loadbearing walls, fixtures, wiring or plumbing may be made, provided that the cubic content existing when it became nonconforming shall not be increased.

DRAFT

(2) If a nonconforming structure or portion of a structure containing a nonconforming use is declared by any duly authorized official to be physically unsafe or unlawful due to lack of repairs or maintenance, it may be strengthened or restored to a safe condition upon order of an official charged with protecting the public safety.

§ 50-32. Minimum building lines on major streets.

Except as provided in § 50-16, minimum building lines measured from the center of the street shall supersede the minimum front yard requirements for those districts on the following streets:

Street Name	Location	Minimum Distance (feet)
Transit Road	North and south of Village of Depew	90
Genesee Street	East of Harris Hill Road	90
Wherle Drive	West of Harris Hill Road	90
Walden Avenue	From Cemetery Road east to Town Line Road	90
William Street	All	90
Pavement Road	All	90
Bowen Road	All	90
Aurora Street	All	90
Town Line Road	All	

§ 50-33. Supplementary height regulations.

Flagpoles and chimneys, radio or television antennas located upon and constituted as an integral part of a principal structure and windmills may be erected above the height limit specified, but are limited to a height not exceeding 60 feet above the average finished grade. Mechanical space for building equipment placed on the building roof may be allowed above the maximum height specified, provided that such mechanical space is set back a minimum of 15 feet from any exterior wall, does not exceed 15 feet in height and is screened from view.

§ 50-34. Fences and walls.

A. No fence or wall in a residential district shall exceed six feet in height, except where it abuts a nonresidential district, in which event it shall not exceed eight feet in height; provided, however, that a fabric fence not exceeding 12 feet in height enclosing a tennis court shall be permitted. For the purpose of screening, the Planning Board may require fences, vegetation or other appropriate material in nonresidential districts where they abut residential districts to assure privacy for adjacent land uses with visual, noise and air quality factors considered.

B. In no event shall fences or walls in nonresidential districts abutting residential districts exceed eight feet in height.

DRAFT

C. Within nonindustrial districts, no fence or wall, other than a necessary retaining wall, over three feet in height, shall extend into the front yard of any lot.

D. The height of all fences or walls shall be measured from the average finished grade of the lot.

E. The fence posts and other supporting structures of the fence shall face the interior of the area to be fenced.

F. The Town Board reserves the right to deny or revoke a building permit for the installation of a fence where the Town Board in its discretion determines the fence as proposed to be installed would or could pose a threat to the public health, safety and welfare.

§ 50-35. **Clear vision at intersections.**

Clear vision shall be maintained on corner lots in a triangle formed between points on the front and side lots' lot line 35 feet from the intersection. Within that area no fence, wall, ornamental gate or portal, bushes or shrubbery shall be permitted higher than two feet above the average finished grade of the lot. Trees shall be permitted within the area only if maintained and trimmed so that no branches or foliage are less than eight feet above the average finished grade of the lot.

§ 50-36. **Projections into yards and courts.**

A. Cornices and eaves may project not to exceed 18 inches over any required yard or court.

B. Sills, leaders, belt courses and similar ornamental or structural features may project six inches into any required yard or court. An open fire balcony or fire escape or a fire tower may project into a required yard not more than four feet.

C. Bay windows, oriels or balconies.

(1) Ground story bay windows, oriels or balconies having a combined total width not exceeding one half the length of the wall to which they are attached may project not more than three feet into any required yard. An open porch not over one story high may project into any required side yard, provided that it does not come nearer the side lot line than a distance equivalent to one half the width of the side yard required as a minimum for that lot.

(2) No porch, oriel, bay window, balcony or stairway constructed under the provisions of the preceding subsection shall have a width or a greater dimension in excess of twice the distance of its projection. An open porch or entranceway may project not to exceed eight feet into a required front yard. A bay window not over one story high may project four feet into a required front yard. Such bay windows shall not occupy more than one half of the wall to which they are attached. Where part of the front wall encloses garage space, such wall space shall not be used to figure length of the bay windows.

DRAFT

D. A chimney, smokestack, flue or elevator shaft may project into any yard or court required as a minimum, provided that the horizontal section of the projection does not exceed 12 square feet in any residence district or nine square feet in any other district, and provided that it does not come nearer the side lot line than a distance of three feet.

§ 50-37. **Ornamental gates and portals.**

Ornamental gates and portals may be constructed in any district, but only on private property, and may be located in a required yard.

§ 50-38. **Subdivisions.**

A. General Provisions

(1) Title. The official name of these regulations shall be the Town of Lancaster Subdivision Regulations, hereafter referred to as the "Regulations".

(2) This Chapter is adopted under the authority of Article 16 of the Town Law of the State of New York. Pursuant to New York Town Law § 276, the Town Board is authorized and empowered to approve plats showing lots, blocks or sites, with or without streets or highways, and to approve preliminary plats, within the Town. The Planning Board has authority to review and make recommendations for approval to the Town Board for subdivisions pursuant to these Regulations.

(3) This Chapter is enacted under the authority of the Municipal Home Rule Law § 10(1)(ii), subparagraphs (a)(12) and (d)(3), and Municipal Home Rule Law § 22. It is the intent of these Regulations to supersede the provisions of New York State Town Law dealing with subdivisions and the Highway Law in the following circumstances:

(a) Highway Law § 171(c) — Minimum right-of-way width of three rods.

(b) Town Law § 276(11) — Filing of final plat; expiration of approval.

(c) Town Law § 277(9)(a) — Furnishing performance bond.

(d) Town Law § 277(9)(b) — Security where plat is approved in sections.

B. Scope and Application.

(1) No subdivision of any lot, tract or parcel of land shall be effected, and no street, sanitary sewer, storm sewer, water main or other facilities in connection therewith shall be laid out, constructed, opened or dedicated for public use and travel, or for the common use of occupants of buildings abutting thereon, except in strict accordance with the provisions of these regulations.

(2) All plans for subdivision shall be submitted to the Planning Board for review and recommendations before they are acted upon by the Town Board.

DRAFT

(3) For all major and minor subdivisions, the Planning Board shall provide an advisory opinion to the entity acting as Lead Agency for SEQRA review.

(4) The provisions contained herein shall apply to all land within the Town of Lancaster.

C. Purposes and Intent. These regulations for the subdivision of land were enacted to provide for the orderly growth and coordinated development of the Town of Lancaster (the "Town") and its subdivisions, to ensure the comfort, convenience, safety, health and welfare of Town residents. In addition, the Regulations are intended:

(1) To guide the future growth and development within the Town in accordance with sound planning principals to obtain harmonious and stable residential and nonresidential areas.

(2) To ensure the design and installation of high-quality improvements and infrastructure in compliance with the specifications and standards established by the Town.

(3) To ensure that public facilities are available and will have a sufficient capacity to serve the proposed subdivision.

(4) To minimize ongoing costs of operating and replacing the Town's infrastructure.

(5) To provide coordination of land development activities in accordance with the objectives of the Town's zoning laws and comprehensive plan.

(6) To protect and conserve the value of land, buildings and improvements and to minimize conflicts among the uses of land and buildings.

(7) To ensure that local subdivision actions comply with the requirements of county, state and Federal law.

(8) To provide safe and convenient vehicular and pedestrian circulation, and to create a beneficial relationship between land and buildings that allows proper access and circulation of traffic.

(9) To require reservation of space for school, recreation and other public uses.

(10) To ensure the accurate preparation and recording of plats.

(11) To ensure subdivision design mindful of avoiding, minimizing, or mitigating natural hazards and protecting natural resources.

(12) To preserve the natural beauty of the Town and to ensure appropriate development with respect to environmentally sensitive areas.

DRAFT

D. Validity. Should any section or provision of these Subdivision Regulations be declared invalid such decision shall not affect the validity of these Regulations as a whole, or any part thereof, other than the section or provision so declared to be invalid, nor shall the decision affect its application to different facts or circumstances.

E. General Regulations for Subdivisions.

(1) By authority of the provisions of § 274-a of Article 16 of the New York State Town Law, the Planning Board is directed to study each plat for land subdivision within the Town and to recommend to the Town Board approval, approval with modifications or disapproval, in accordance with the procedure and standards hereinafter stated. Such recommendation shall be transmitted to the Town Board within 45 days after the preliminary plat has been referred to the Planning Board by the Town Board or after receipt of the application fee and sketch plan in the case of a minor subdivision. The Town Board shall not act upon the proposed subdivision until the Planning Board has reported or 45 days have elapsed. In case of a recommendation for disapproval, the Planning Board shall state the reasons for such recommendation.

F. Design and Performance.

(1) General Design Guidelines: The following are general design guidelines for all public streets.

(a) Planned layouts shall minimize overall length of local streets.

(b) Streets shall provide safe and convenient access to housing.

(c) All dwellings shall be accessible by emergency and service vehicles.

(d) Roadway networks shall improve efficiency and connectivity while preserving neighborhood character.

(e) Traffic calming and access management measures shall be used in conjunction with a connected roadway network where needed.

(f) Provide for looping of utilities, where appropriate and desirable.

(g) Necessary lighting along streets and walkways shall be provided as determined in the discretion of the Planning Board and/or Town Board.

(h) Use of signs shall be minimized and signposts shall be unobtrusive.

(i) Informational signs shall not compete with traffic control signs for driver attention.

(j) Use of break-away street furniture shall be considered wherever possible and shall be grouped for aesthetic as well as safety values.

DRAFT

(k) Sight distances shall be consistent with probable traffic speed, terrain, alignments, and climatic extremes.

(l) Pedestrian, bicycle, and vehicular traffic shall be separated to the extent feasible.

(m) Parks, play areas, and interior block open spaces, shall be visible from the street.

(n) Horizontal and vertical street alignments shall relate to the natural contours of the site insofar as is practical and shall be consistent with other design objectives.

(o) Horizontal and vertical alignment of streets shall be selected to minimize grading quantities.

(p) Wherever possible, street layouts shall be planned to avoid excessive runoff concentration.

(q) Streets crossing drainage ways inevitably will function as dams, and shall be designed to minimize adverse backwater effects, scour, and erosion.

(r) Subdivisions proposed to be located in the Access Management Overlay District, as defined in this Chapter, shall comply with the design and other requirements of that overlay district.

(s) No subdivisions shall be created that have the effect of creating one or more flag lots.

(2) Design Standards for Streets:

(a) General objectives. Streets shall be of sufficient width, suitably located and adequately constructed to accommodate the prospective traffic and normal road maintenance equipment. Street systems shall promote connectivity. The arrangement of streets shall be coordinated such that the streets compose a convenient system, cause no undue hardship to adjoining properties and render no property inaccessible from an existing street or from a proposed street in a subdivision for which a completion bond or similar performance guaranty has been posted.

(b) Requirements.

[1] Right-of-way widths shall be as follows:

Type of Street	Minimum Right-of-Way Width (feet)
Arterial	Per state or county requirement, as applicable
Collector	66

Local or minor street	66

These distances may be modified as determined after consultation with the Erie County Department of Public Works, the Planning Board, the State Department of Transportation, or the agency with jurisdiction over the road at issue. All deviations from these standards must be approved by the Town Board in conjunction with its review of the Final Plat.

[2] Pavement widths curb to curb shall be not less than the following:

Type of Street	Pavement Width (feet)
Arterial	Per state or county requirement, as applicable
Collector	28
Local or minor street	28

These distances may be modified as determined after consultation with the Erie County Department of Public Works, the Planning Board, the State Department of Transportation, or the agency with jurisdiction over the road at issue. All deviations from these standards must be approved by the Town Board in conjunction with its review of the Final Plat.

[3] Street grades:

[a] Street grades may be not more than 7% nor less than 0.4 of 1% (or as determined after consultation with the Town or Erie County Department of Public Works, the Town Board or the State Department of Transportation, when applicable).

[b] Grades approaching intersections may not exceed 4% for a distance of not less than 100 feet from the center line of said intersection where possible (or as determined after consultation with the Town Highway Department, the Erie County Department of Public Works, the Town Board or the New York State Department of Transportation, when applicable).

[4] Where a center-line deflection angle of more than 10° degrees occurs, a circular curve shall be introduced, having a center-line radius of not less than the following:

[a] Major street: 500 feet.

[b] Collector street: 300 feet.

[c] Local or minor street: 150 feet.

[d] Alley: 100 feet.

DRAFT

[5] All vertical curves shall have such length as necessary to provide safe sight distances as specified by the American Association of State Highway Officials.

[6] Except for minor streets and alleys, there shall be a tangent of at least 100 feet between reverse curves.

[7] Street intersections shall be laid out as follows:

[a] Streets shall intersect as nearly as possible at right angles, and no street shall intersect at less than 75°. Intersections with principal arterial streets shall be at least 1,300 feet apart measured from center line to center line.

[b] Proper sight lines shall be provided and maintained at all intersections of streets. Measured along the center line, three feet above the pavement, there shall be a clear sight distance triangle of 200 feet on major arterials, 100 feet on collector streets and 75 feet on local or minor streets, measured from a point of the center-line intersection of the streets.

[c] A center-line offset minimum of 125 feet shall be provided at street jogs.

[d] Multiple intersections involving the junction of more than two streets shall be avoided whenever possible, but where they are unavoidable, such intersections shall be designed with extreme care for both vehicular and pedestrian safety.

[8] Cul-de-sac streets shall not be created to provide access to residential lots except in situations where, in the view of the Planning Board, a through street cannot reasonably be provided due to the physical characteristics of the subdivision parcel and adjoining properties. Where a cul-de-sac street is authorized, either as a permanent dead-end street or as a temporary dead-end street pending completion of a through road network, not more than 12 single-family residential lots may gain access from either the initial development or extension of such cul-de-sac street.

[a] A cul-de-sac shall be restricted to a maximum of a 7% grade in all zoning districts and to a length of 1,500 feet.

[b] A turnaround with a right-of-way radius of at least 75 feet and a pavement radius of at least 56 feet shall be provided at the end of any cul-de-sac or permanent dead-end street. The cul-de-sac street shall otherwise be governed by all stated requirements of the Town Street and Highway Specifications.

[9] A temporary turnaround, 50 feet in radius, shall be required where the logical extension of a subdivision street is terminated and the street is two or more lots deep. A T-type turnaround may be used with the approval of the Highway Superintendent and the Planning Board.

DRAFT

[10] Minimum design standards. Streets and related improvements shall be laid out and constructed in accordance with the minimum design standards prescribed in the Town Street and Highway Specifications of the Town of Lancaster, as adopted by the Town Board and incorporated by reference in this Chapter. Said specifications are on file in the Town offices.

[11] Where subdivisions are developed abutting existing or dedicated or platted streets where rights-of-way are inadequate, the developer shall make available the additional rights-of-way to meet the minimum standards of these Regulations. Rights-of-way may be determined after consultation with the Highway Superintendent and the Town Engineer.

[12] Adequate plan consideration and provision for pedestrians and/or bicyclists shall be made, accommodating safe and convenient circulation within the subdivision and between the subdivision and surrounding areas of interest (parks, schools, commercial activity, etc.). Design elements shall include walks, paths, or other linkages along roads, property lines or other common areas within the boundaries of the subdivision, as acceptable to the body with final approval authority (the Town Board). Pedestrian accessway requirements may be waived by the Town Board at its discretion.

(3) Sewers: Any building that has sanitary facilities, or is used by human occupants for living or sleeping, must be connected to a sanitary sewer system approved by the Erie County Health Department, if such system is available. All sanitary sewers and laterals must be installed before a street is improved in accordance with applicable provisions of the Erie County Division of Sewer and Town Code, including but not limited to Chapters 18 and 37. The Town reserves the right to require the installation of improvements necessary for a subdivision when the site is within a sewer district but public utility services are not currently available.

(4) Water Distribution and Fire Hydrants: Waterline size shall be a minimum of eight inches and on a grid system or interconnected wherever possible, based on generally accepted engineering practices for required fire flow, or other adjustments required by the Erie County Water Authority and Town Engineer. Fire hydrant type and installation shall be in accordance with the specifications provided by the Town engineering department. Fire hydrants shall be located a maximum of 500 feet apart.

(5) Blocks: No specific rule concerning the shape of blocks is made, but blocks shall fit readily into the overall plan of the subdivision, and their design shall evidence consideration of topographical conditions, lot planning, traffic flow and public open space areas.

(6) Block Dimensions

(a) The maximum lengths of blocks containing a majority of lots seventy-five feet and over in width shall be 1,800 feet, and the maximum length of blocks

containing a majority of lots less than seventy-five feet in width shall be 1,200 feet.

(b) Blocks over 900 feet long may, at the discretion of the Planning Board and/or Town Board, may require pedestrian ways at their approximate centers. The provision of additional access ways to schools, parks or other destinations may be required by the Planning Board and/or Town Board.

(c) Blocks shall have sufficient width to accommodate two tiers of lots including any additional allowance for natural features in between such as an existing watercourse. This standard shall not apply where single tier lots are required to separate residential development from arterial traffic, to separate lots from an incompatible use, to accommodate a requirement for single loaded streets, to allow for unusual topographical conditions or when adjacent to the outer perimeter of the subdivision.

(7) Lots: Residential lots shall comply with the following requirements:

(a) All lots shall meet the minimum area and lot dimensions required by the Town Zoning Code for the zoning district in which the lot is located.

(b) Side lot lines shall be substantially at right angles or radial to street lines.

(c) All lots shall abut their full frontage on a publicly dedicated street or a street that has received the legal status as such or on an approved private road as approved by the Town Board in an open space design development or open development area.

(d) Lots in a floodway or floodplain or within 100 feet of a designated wetland, whether incorporated as a part of the subdivision or not, are subject to the following provisions:

[1] Floodplain regulation as provided for in Chapter 21 of the Town Code;

[2] Article 24 of the New York State Environmental Conservation Law; and

[3] Wetlands falling under federal jurisdiction will be subject to a site-specific buffer zone, the width of which is to be as designated by the Town Board, unless appropriate fill permits are obtained from the United States Army Corps of Engineers. Under no other circumstances shall the Town approve any project or issue permits for a project that includes plans to build a structure or place fill within the designated buffer zone.

(e) A lot of less than 300 feet frontage fronting on a county or state highway shall be designed so as to share a common curb cut with an adjacent lot if

DRAFT

either adjacent lot has not been previously granted a curb cut permit. When more than three lots are proposed to be subdivided from a parcel with frontage on a county or state highway, access for all such lots shall be on internal streets, not on a county or state highway. Each lot permitted to front on a county or state highway shall provide for an approved on-site turnaround so as to obviate the necessity of any vehicle from backing onto such highway.

(f) Any such common curb cut and/or common driveway shall be subject to reciprocal easements and suitable maintenance agreements which shall be noted by reference on the subdivision plat, reviewed and approved by the Town Board, and recorded in the Erie County Clerk's office. Any such common driveway shall be further subject to criteria that may be promulgated by the Town Board for the design, construction and approval of common driveways.

(g) Access from private streets. Access from privately owned and maintained streets, as may be specifically authorized by the Town Board, in accordance with § 280-a of the Town Law, shall be deemed acceptable only if such streets are designed and improved in accordance with this Section and means satisfactory to the said body are provided for the long-term ownership and maintenance of said privately owned and maintained streets. The subdividing of land shall be such as to provide each lot with satisfactory access for routine and emergency purposes from the community's system of public streets and roadways.

(8) Easements: Utility and other easements shall be provided as follows:

(a) Utility easements. An easement shall be provided for all utility lines wherever those utility lines do not fall within a dedicated right-of-way. All utility and stormwater easements shall be plotted on both the preliminary and final subdivision plats. The developer must identify all easements in deeds for each lot affected. Utility easements shall have a minimum width of 15 feet. All utility lines that are primarily intended to provide service to the lots within the subdivision shall be installed underground at a depth and at such locations as will minimize risk of interruption of services.

(b) Where a subdivision is traversed by a watercourse, drainageway, channel or stream, there shall be provided a stormwater easement or drainage right-of-way conforming substantially with the lines of such watercourse and such further width or construction, or both, as will be adequate for the purpose.

(c) Drainage easements. Drainage easements shall be provided for all natural and man-made drainageways that do not fall within a dedicated right-of-way. All drainage easements shall be plotted on the preliminary and final plats. The Town shall be provided with a metes and bounds description of all proposed easements prior to Final Plat approval.

DRAFT

(d) The Town Board reserves the right to require additional cross-access easements when the purposes of the easements are found to be in the public interest.

(9) Buffer Strips/Greenbelt: When residential districts directly abut major arterials and/or commercial and industrial development or other areas as determined by the Town, a buffer strip consisting of at least 45 feet shall be provided along the line where such land uses abut. For purposes of title, these buffer strips shall be part of the platted lots but shall have the following restriction set forth on the Final Plat: "This buffer strip is reserved for the planting of trees or shrubs by the owner or the preservation of natural features; the building of structures and other impervious surfaces hereon is prohibited." No rear yard drainage or utility easements shall be placed in this buffer area unless approval of the Town Board is otherwise granted.

(10) Utilities: Utilities, to the extent practicable, are to be placed underground throughout a subdivision area in conformance with the Town specifications for public and private improvements. Suitable easements shall be provided for any utility service.

At a minimum, the following improvements are required to be part of the Public Improvement Plan for a proposed subdivision to assure that the property is adequately served by water, sewer and drainage systems and by electric power and other fuel-distribution systems. To assure that these systems are properly installed and easily repaired, inspection of the installation of these improvements is required.

(a) Water distribution.

[1] Water distribution: a system of transmitting potable water to the subdivision and appurtenances in adequate amounts for the normal use of each lot in the proposed subdivision.

[2] The public water supply system in the Town is owned by the Town and operated by the Erie County Water Authority. Any extension of or service from the public water system is subject to the rules and regulations and approval of the Town of Lancaster, Erie County Water Authority, and the New York State Department of Health.

(b) Sanitary sewer systems.

[1] Sanitary sewage is the combination of human and household wastes with water. These sewer systems are used to dispose of sanitary sewage from individual lots in a subdivision. Two types of sanitary sewer systems are permitted: public sanitary sewer systems and individual sewage disposal systems. All public and selected individual sanitary sewer systems must be approved by the

DRAFT

NYSDEC and/or the New York State Department of Health, whichever is applicable.

[2] Public sanitary sewers shall be provided whenever existing sanitary sewers are reasonably accessible and available capacity exists to support the proposed subdivision.

[3] Individual sewage disposal systems are on-lot systems, which means that the sewage is disposed of on the lot. Individual sewage disposal systems shall not be used in any development that has more than four lots of less than five acres in size.

(c) Drainage systems.

[1] These are a combination of natural watercourses and man-made facilities intended to convey stormwater runoff

[2] A stormwater pollution prevention plan (SWPPP) consistent with the requirements of this Chapter shall be required for all Preliminary Plats and Final Plats.

[3] All Preliminary Plats and Final Plats shall also be reviewed for compliance with Chapter 42 of the Town Code, Stormwater management and erosion and sediment control.

[4] Adequate and comprehensive drainage systems shall be provided in accordance with the natural direction of runoff for the total upland watershed area affecting the subdivision. Such drainage systems shall have sufficient capacity to accommodate the potential future runoff based upon the probable land use and ultimate development of the total watershed area upland of the subdivision.

[5] Street side ditch piping for stormwater along an existing street shall be the responsibility of the lot owner (or applicant) and construction, removal or replacement shall be in accordance with these Regulations and the Town Code.

[6] The preservation of natural watercourses is preferable to the construction of drainage channels, and such watercourses should be preserved and utilized.

[7] When storm drain connections to storm sewers are not possible, all storm drainage shall be piped underground so as to take all runoff away from the building, parking and walk areas and discharge to the nearest swale or detention facility.

DRAFT

[8] Cable television. It shall be the developer's responsibility to coordinate the installation of the cable television wire with the cable television provider and the lead utility company.

The installation of improvements shall be subject to inspection at all stages by representatives of the Town. For this purpose, free and unrestricted access shall be afforded and requested information shall be promptly submitted. The cost of such inspections shall be approved by the Town and included in the value of the surety submitted for the project.

(11) Site Surface Improvements: These improvements are required to ensure that the ecology of the subdivision is not disturbed adversely, that the subdivision presents an attractive appearance, that is properly paved and monumented, and that all improvements are recorded on the final plat for approval by the Town.

(a) Erosion control. The subdivider shall preserve unique physical features, such as historic landmarks and sites, rock outcroppings, hilltop lookouts, stands of trees, desirable natural contours and similar natural features in designing a project.

[1] Erosion and sedimentation control shall conform to local and regulatory agency requirements.

[2] During the development process, the developer shall expose the smallest practical area of land at any one time. Proper erosion control measures shall be in place prior to any area being disturbed. Examples of normal erosion control are straw baling, silt dams made of synthetic materials and siltation collection depressions.

(b) Topsoil.

[1] Topsoil moved during the course of construction should be stored in such a manner as to allow for minimum volume to be stacked or stored at any one time. The stacking or storage period should be kept as short as possible.

[2] Storage and redistribution of topsoil should be consistent with the phasing of construction for the purpose of reducing the need for the storage of large volumes of topsoil. Topsoil shall be redistributed so as to cover all areas of the subdivision adequately to a minimum depth of eight inches for each lot and shall be stabilized by seeding or planting. Topsoil piles shall be stabilized by seeding. Permanent removal of topsoil from areas of proposed road and utility construction requires prior permission of the Town Board as part of the permit required by this Chapter. Prior to said removal authorization, the applicant shall demonstrate that sufficient topsoil will remain. As specified in Section 18-23, Exceptions, of the Town Code, topsoil removed during construction of a subdivision should

DRAFT

be replaced to the same depth as existed prior to its removal for portions of the site not covered by structures, sidewalks, parking areas, roadways or driveways.

[3] Temporary vegetation and/or mulching should be provided to prevent potential erosion problems during construction.

[4] Upon completion of the project, the subdivider shall not be permitted to leave any hills or mounds of dirt around the tract. All surfaces should be restored within six months of the time of the completion of the section of the subdivision.

[5] Upon completion of the project, the subdivider shall not be permitted to leave any surface depressions that will collect pools of water, except as may be required for retention of stormwater runoff.

[6] All fill introduced to the project site to meet grading requirements as approved by the Town Engineer shall be preapproved as to quality and source.

(c) Landscaping. Landscaping is the improvement of land by contouring and decorative planting, which includes vegetative ground cover.

[1] All lots which are disturbed during the course of construction and which are not covered by structures or paving shall have a minimum vegetative ground cover to prevent erosion.

[2] Additional landscaping may be recommended by the Planning Board to screen or buffer the subdivision from a visually non-compatible use.

[3] All subdivisions must be in conformance with the provisions of the Town Code concerning landscaping, including but not limited to Section 45-22, Landscaping, and the Town Zoning Code, any other local laws regulating trees, and the following:

[a] A minimum ground area of not less than twenty five 25% of the total area of a project site (entire property) shall be landscaped and shall be the landscaped area required unless the Town Board has allowed a reduced amount for just cause per the Zoning Law.

[b] The arrangement and location of landscaping on a lot shall be dispersed throughout the project site so as to prevent unsightliness and the monotony of parked vehicles. Also, acceptable plantings and landscaping around dumpsters and other accessory structures shall be designed to visually shield such uses from public roads and from adjoining properties.

DRAFT

[c] Not less than 8% of the interior of a parking area designed for 10 or more vehicles shall be devoted to the required landscape area of a project. As to parking areas designed for 25 or fewer vehicles, where the configuration of the development site permits, a yard area at least five feet wide in excess of the minimum required for parking areas in the zoning district shall be credited to the interior landscaping requirement.

[d] The interior dimensions of any area or median shall be wide enough to protect the plant materials planted therein and insure proper growth.

[e] If the tree removal permit is part of a site plan or subdivision application, the following information must be provided:

[i] All large areas of trees of six inches DBH or larger (more than 10 trees) and woodlands must be shown on the plans.

[ii] For major subdivision approval, the applicant must show how the maximum number of trees can be preserved on the subject property, taking into consideration the lot layout, driveway location, building locations, drainage facilities and septic or sewer system locations.

[iii] The Town Board will require, at a minimum, the installation of two new trees per tree removed at locations prescribed by the Town. Trees for replanting shall be selected from the Town of Lancaster species list and be minimum of 2 ½ inches caliper or as specified. The Code Enforcement Officer shall enforce such requirement upon issuance of a building permit.

(d) Fill. To achieve required grades within the subdivision, any fill introduced to the property must have written verification as to the source of the fill, and such fill must be approved by the Town Engineer. Designs should be developed so as to discourage the introduction of fill to a property so as to utilize the natural setting of the property and to encourage the preservation of mature vegetation.

(e) Street signs. Permanent street signs of the same type and design in general use throughout the Town, showing the names of intersecting streets, shall be erected at each intersection.

(f) Monuments. Permanent reference monuments shall be set at critical corners and angle points of the boundaries within the subdivision. Generally, critical corners and angle points shall be deemed to mean boundary corners and angle points in the boundaries of the parcel being subdivided and in street right-of-way boundaries at all street intersections. Variations to this general rule shall be permitted with Town Board approval. Requests for deviations shall be made prior to preliminary plat approval. Agreements on

DRAFT

monumentation shall be incorporated into the subdivision plan of the Final Plat.

(g) Planting. Adequate tree planting shall be completed. Street trees shall be approximately 35 feet apart. Tentative tree species will be indicated on the preliminary plat. Trees shall not be less than 2 ½ inches DBH at the time of planting. They may be planted on either side of the sidewalk, unless the planting strip is less than eight feet, in which case they should be planted in the lawn area. Trees must be adequately supported by guy wires until firmly rooted. All tree planting/landscape plans shall be reviewed and approved by the Town during the subdivision approval process.

(12) Acceptance of Dedications:

(a) Streets. Streets shall be dedicated according to all applicable State and local laws.

(b) Parkland Sites. Acceptance of dedications for parkland shall be by resolution of the Town Board.

(13) Notice Pursuant to Agriculture and Markets Law § 310: The notice required by Section 19-4 Notification of real estate buyers and prospective neighbors, of the Town Code shall be included with all Preliminary Plats and/or Final Plats submitted to the Planning Board during the subdivision review process.

G. Required Improvements

(1) Installation of Improvements. The applicant, at its own expense, shall provide (design, construct, install) the improvements required by these Regulations. All improvements shall meet Town standards and specifications as found in the [Town Specifications for Public Improvements], including but not limited to the requirements of Chapter 11, Improvements, Public and Private, of the Town Code.

(2) Failure to Install Required Improvements: In the event that any required improvements have not been installed in accordance with these Regulations within the term of the performance bond, the Town Board may declare the bond to be in default and collect the sum remaining payable. Upon the receipt of the proceeds of the bond, the Town shall install such improvements as are covered by the bond and as commensurate with the extent of building development that has taken place in the subdivision but not exceeding in cost the amount of such proceeds.

(3) Approval of Public and Private Improvement Plans:

(a) Public and Private Improvement Permit. No improvement shall be constructed or installed without the prior approval of a Public or Private Improvement Plan by the Town Board and the Town Engineer, who shall

DRAFT

issue a Public or Private Improvement permit, as appropriate, following approval of the Final Plat.

(b) Construction Contracts. Prior to the start of construction of any required improvements, the applicant shall furnish to the Town Engineer a copy of the specifications included in any contract entered into by the applicant for such construction.

(c) Modification of Design of Improvements. If at any time before or during the construction of the required public or private improvements it is demonstrated to the satisfaction of the Town Engineer that unforeseen conditions make it necessary or preferable to modify the location or design of such required improvements, the Town Engineer, in consultation with the Highway Superintendent, may authorize such modifications upon written request of the applicant, provided such modifications are within the spirit and intent of the approved Final Plat and do not amount to the waiver or substantial alteration of the function of any improvement required by the Town.

(4) Inspection of Public Improvements:

(a) Supervision of Construction. The construction of all required public and private improvements shall be supervised by a registered professional engineer employed by the Town at the expense of the applicant. After completion of construction, the supervising engineer shall certify to the Town Engineer that all required improvements have been constructed as required and approved by the Board or as such requirements have been modified by the Town Engineer. In addition, after completion of construction, electronic and paper copies of a certified plan showing all improvements as constructed in accordance with the approved Final Plat and Public or Private Improvement Plan shall be submitted to the Town.

(b) Inspection by the Town. The Town Engineer or his/her designee shall inspect required improvements during construction to assure their satisfactory completion.

(c) Notification. The applicant shall notify the Town at least five days prior to the start of construction or installation of any improvement and at least 24 hours prior to the completion of such improvements.

(d) Fees. All costs of inspection shall be charged to the Applicant at the issuance of a Public or Private Improvement Permit.

(e) Petitioner Responsible. If the Town Engineer finds, upon inspection, that any of the required public or private improvements have not been constructed in accordance with the approved Public Improvement Plan, he or she shall so report to the Town Board and Town Code Enforcement. The Town Board shall then notify the applicant and instruct the applicant to

DRAFT

correct any discrepancies. Failure to reject improvements shall not, in any way, prevent later rejection when such defects are discovered, or obligate the governing body to final acceptance.

(f) Maintenance Bond. The required public improvements shall not be considered to be completed until the installation of the improvements has been approved and certified by the Town Engineer and a final as-built map has been submitted, in paper and electronic format, indicating the location of monuments marking all underground utilities as actually installed. In addition, a two-year maintenance bond for all required public improvements shall be submitted prior to acceptance of all the improvements by the Town Engineer. A maintenance bond shall be in the amount of 40 percent (40%) of the construction cost for each utility, in accordance with Chapter 11, Improvements, Public and Private, of the Town Code.

H. Procedure for Approval of Subdivisions. Whenever any subdivision of land is proposed to be made, and before any contract for the sale of or any offer to sell any lots in such subdivision or any part thereof is made, and before any permit for the erection of a structure in such proposed subdivision shall be granted, the subdivider or his duly authorized agent shall apply, in writing, for approval of such proposed subdivision in accordance with the following procedures.

(1) Legal authority to apply. Subdivision applications shall only be accepted from persons having the legal authority to submit such applications. In general, applications shall be made by the owners or lessees of property, or their designated agents, or persons who have contracted to purchase property contingent upon their ability to acquire the necessary approval under the Regulations. The Planning Board may require the applicant to present evidence of authority to submit the application.

(2) Submission of sketch plan. Any owner of land shall, prior to subdividing or resubdividing land, submit to the Town Clerk, at least 10 days prior to the regular meeting of the Planning Board, three copies of a sketch plan of the proposed subdivision, for the purposes of classification and preliminary discussion.

(3) Discussion of requirements and classification.

(a) The subdivider, or his duly authorized representative, shall attend the next meeting of the Planning Board to discuss the requirements of these regulations for street improvements, drainage, stormwater management, sewerage, water supply, fire protection and similar aspects, as well as the availability of existing services and other pertinent information.

(b) Classification of the sketch plan is to be made at this time by the Planning Board as to whether it is a minor or major subdivision, as defined in these regulations.

DRAFT

(c) If the sketch plan is classified as a minor subdivision, the subdivider shall then comply with the procedure outlined in subsection (4) below.

(d) If it is classified as a major subdivision, the subdivider shall then comply with the procedure outlined in subsections (5) and (6) below, and other major subdivision provisions of these regulations.

(4) Approval of minor subdivision.

(a) Application fee. Within six months after classification of the sketch plan as a minor subdivision, the subdivider shall pay to the Town Clerk an application fee as set from time to time by resolution of the Town Board of the Town of Lancaster. Failure to do so shall require resubmission of the sketch plan to the Planning Board for reclassification.

(b) SWPPP. If required for the proposed minor subdivision under Article II of Chapter 42, Stormwater Management and Erosion and Sediment Control, of the Town Code, the subdivider shall submit a stormwater pollution prevention plan (SWPPP), together with the recommendation of the Stormwater Management Officer ("SMO") to approve, approve with modifications, or disapprove the SWPPP pursuant to Chapter 42, Stormwater Management and Erosion and Sediment Control, and this Chapter.

(c) For subdivision of any property located within an Overlay District, any other information required pursuant to §50-24, §50-25, §50-26 and §50-27, the applicable regulations set forth in this Chapter, shall be submitted for review and consideration by the Planning Board.

(d) Planning Board recommendation. Upon receipt of the application fee, the Town Clerk shall so notify the Planning Board and the Planning Board shall, within 45 days thereafter, consider the proposed minor subdivision and make its recommendations to the Town Board to approve, modify and approve, or disapprove the proposed minor subdivision. If a SWPPP was submitted pursuant to § 50-38 (H) of this Chapter, the Planning Board shall not recommend to approve the minor subdivision plat unless the SWPPP and plat comply with the performance and design criteria and standards set forth in Chapter 42, Stormwater Management and Erosion and Sediment Control, and § 50-71 of the Town Code, Stormwater Pollution Prevention Plans. The Planning Board and/or the Town Board may require, however, when it is deemed necessary for protection of the public health, safety and welfare, that a minor subdivision comply with all or some of the requirements specified for major subdivisions. If the Planning Board should require that the proposed minor subdivision comply with all or some of the requirements specified for major subdivisions, it shall so state in its recommendation to the Town Board.

DRAFT

(e) Town Board decision. Upon receipt of the recommendation of the Planning Board, the Town Board shall, within 45 days thereafter, approve, modify and approve, or disapprove the proposed minor subdivision. Approval shall not be deemed final until the subdivider has complied with the provisions with respect to certification that any required public improvements have been completed or bond satisfactory to the Town Board has been posted in lieu thereof. If a SWPPP was submitted pursuant to § 50-38 (H) of this Chapter, the Planning Board shall not recommend to approve the minor subdivision plat unless the SWPPP and plat comply with the performance and design criteria and standards set forth in Chapter 42, Stormwater Management and Erosion and Sediment Control, and § 50-71, Stormwater Pollution Prevention Plans, of the Town Code.

(5) Approval of preliminary plat of major subdivision.

(a) Submission of preliminary plat. Six copies of the preliminary plat shall be presented to the Town Clerk at least 10 days prior to a regular meeting of the Town Board. Two copies shall be referred by the Town Board to the Planning Board for study and consideration. The preliminary plat and supporting data shall comply with the provisions of § 50-38 (H) of these regulations.

(b) Meeting with Planning Board. The subdivider, or his duly authorized representative, shall attend the next regularly scheduled meeting of the Planning Board for discussion and review of the preliminary plat.

(c) For subdivision of any property located within an Overlay District, any other information required pursuant to §§ 50-24, 50-25, 50-26, and/or 50-27 of this Chapter, as applicable, shall be submitted for review and consideration by the Planning Board.

(d) Modifications. Within 45 days after the meeting of the Planning Board at which the preliminary plat is reviewed, the Planning Board shall notify the subdivider of the changes and modifications, if any, which must be incorporated into the final plat before the Planning Board would consider recommending approval of the proposed subdivision.

(e) Planning Board review. The Planning Board shall study the practicability of the preliminary plat, taking into consideration the requirements of the community and the best use of the land being subdivided. Particular attention shall be given to the arrangement, location and width of streets, their relation to the topography of the land, water supply, sewage disposal, drainage, stormwater management, lot sizes and arrangement, the future development of adjoining lands as yet unsubdivided and the requirements of the Master Plan, the Official Map and the Zoning Ordinance.

DRAFT

(f) Planning Board recommendation. The Planning Board shall, within 60 days of its receipt of the preliminary plat, forward the plat to the Town Board with recommendations to approve, modify and approve, or disapprove the preliminary plat. If a SWPPP was submitted pursuant to § 50-38 (H) of this Chapter, the Planning Board shall not recommend approval of the preliminary plat unless the plat and SWPPP comply with the performance and design criteria and standards set forth in Chapter 42, Stormwater Management and Erosion and Sediment Control, and § 50-71, Stormwater Pollution Prevention Plans, of the Town Code. The recommendation of approval of the preliminary plat, subject to conditions, revisions and modifications as stipulated by the Planning Board, shall not constitute Town Board approval of the subdivision, but rather, the Town Board shall be the sole authority to grant such approval.

(g) Town Board decision. On receipt of the preliminary plat with recommendations of the Planning Board, or after a lapse of 90 days after the preliminary plat was received by the Planning Board, the Town Board will approve, modify or disapprove the plat. If a SWPPP was submitted pursuant § 50-38 (H) of this Chapter, the Planning Board shall not recommend approval of the preliminary plat unless the plat and SWPPP comply with the performance and design criteria and standards set forth in Chapter 42, Stormwater Management and Erosion and Sediment Control, and § 50-71, Stormwater Pollution Prevention Plans, of the Town Code. Approval of the preliminary plat shall constitute conditional approval of the subdivision by the Town Board.

(6) Approval of final plat of major subdivision.

(a) Submission of final plat. The subdivider shall, within six months after the approval of the preliminary plat, file with the Town Board six copies for approval of the subdivision plat in final form. The final plat shall conform in all important respects with the preliminary plat as previously reviewed by the Planning Board and previously approved by the Town Board, and shall incorporate all modifications and revisions specified by the Town Board in its approval of the preliminary plat. Otherwise, the plat shall be considered as a revised preliminary plat. If the final plat is not submitted within six months after the approval of the preliminary plat, the Town Board may refuse to approve the final plat and require resubmission of the preliminary plat.

(b) Submission in sections. The Town Board may permit submission of the final plat in sections, each covering a portion of the entire proposed subdivision as shown on the preliminary plat, in accordance with an approved schedule.

(c) Application fee.

DRAFT

[1] All applications for final plat approval must be accompanied by a fee, as set from time to time by resolution of the Town Board of the Town Lancaster, to cover the necessary engineering review fee and other expenses incurred by the Town.

[2] All application fees for apartment complexes, plazas, townhouses, condominiums and other construction will be determined following approval of the preliminary plat

[3] Such fees are not refundable under and circumstances.

(d) Public hearing by the Town Board. Within 45 days after the submission of a final plat for consideration, the Town Board shall hold a public hearing on the plat. Notice of the hearing shall be advertised in a newspaper of general circulation in the municipality at least five days before such hearing.

(e) Action of Town Board. The Town Board shall act on each plat submitted within 45 days after a public hearing on the plat, unless the time is extended by mutual consent of the applicant and the Town Board. The Town Board, by resolution, shall either conditionally approve the plat, conditionally approve the plat with modifications, disapprove the plat or grant final approval to the plat and authorize the signing of the plat. If a SWPPP was submitted pursuant to this Chapter, the Town Board shall not act to approve the final plat or authorize the signing of the final plat unless the SWPPP and plat comply with the performance and design criteria and standards set forth in this Chapter and Chapter 42, Stormwater Management and Erosion and Sediment Control, of the Town Code. If the Town Board fails to act on a plat within 45 days after the public hearing, or within any extended time period agreed upon, the plat may be considered approved. Upon demand of the person submitting the plat, the Town Clerk shall issue a certificate as to the date of submission and the failure of the Town Board to take action, and that certificate is sufficient as evidence of approval.

(f) Town Board decision. The final plat and supporting data shall comply with the provisions of this Chapter. Failure to do so shall be cause for tabling the plat for a period of not more than six months within which the subdivider must conform or begin the approval process anew.

[1] Conditional approval. If the Town Board conditionally approves a final plat, it shall empower a duly authorized officer of the Town to give final approval by signing the plat upon completion of any requirements stated in the resolution of conditional approval. Within five days of conditional approval, the Clerk of the Board shall:

[a] Certify the plat as conditionally approved, subject to any requirements stated in the resolution of conditional approval.

[b] File a copy of the plat in his office.

DRAFT

[c] Mail a certified copy of the plat to the person seeking approval, together with a certified statement of the requirements which must be completed before the plat may be signed as finally approved.

[2] Upon completion of those requirements, the duly authorized officer of the Town shall sign the plat.

[3] Conditional approval of a plat expires 180 days after the date of the resolution granting conditional approval, unless the requirements stated in that resolution have been certified as completed. However, if the Town Board finds an extension is warranted by the circumstances, the time for completion of those requirements may be extended by the Town Board for not more than two additional periods of 90 days each.

[4] Approval of sections. Before granting conditional or final approval to a plat, the Board may permit the plat to be divided into two or more sections. Each section must encompass at least 10% of the total number of lots shown on the plat. Conditional or final approval of the sections of a plat must be granted concurrently with conditional or final approval of the plat. If a plat has been divided into sections, the Town Board may, in its resolution of conditional or final approval, require compliance with conditions as are necessary to assure the orderly development of the plat before the sections of the plat are signed by the duly authorized officer of the Town.

[5] Final approval. Final approval of a plat, or a certificate of failure to act as provided for in subsection E(5) of this Section, expires 30 days after the approval or issuance of certificate, unless the plat or a section thereof has been filed and recorded in the office of the County Clerk. If only a section of the plat is filed with the County Clerk, the entire approved plat must be filed with the Town Clerk within 30 days of the filing of the section with the County Clerk, or the approval or the certificate of failure to act expires. The approval or certificate expires for any section not filed with the County Clerk before expiration of the exemption period to which the plat is entitled under § 265-a of the Town Law.

(7) Alteration after approval. No changes, erasures, modifications or revisions shall be made in any final subdivision plat after approval has been given by the Town Board and endorsed in writing on the final plat, unless the said final plat is first resubmitted to the Town Board and such Board approves any modifications. In the event that any such subdivision plat is recorded without complying with this requirement, the same shall be considered null and void, and the Town Board shall institute proceedings to have the plat stricken from the records of the County Clerk.

DRAFT

(8) Filing of final plat. Upon completion of the requirements above and notation to that effect upon the subdivision plat, it shall be deemed to have final approval and shall be properly signed by the Town Clerk and may be filed by the applicant in the office of the County Clerk. Any subdivision plat not so filed or recorded within 90 days of the date upon which such plat is approved, or considered approved by reasons of failure of the Town Board to act, shall become null and void, unless the particular circumstances of said applicant warrant the Town Board to grant an extension which shall not exceed two additional periods of 90 days.

I. Plat Requirements; Documents to be Submitted.

(1) Preliminary plat.

(a) Scale. The preliminary plat (six copies required) shall be at a scale of not more than 100 feet to the inch.

(b) Information. The preliminary plat shall show or be accompanied by the following information:

[1] Proposed subdivision name or identifying title.

[2] North point, scale and date.

[3] Name of the owner of the property.

[4] Name and stamp of the registered engineer, surveyor or architect responsible for the plat.

[5] Tract boundaries with bearing and distance.

[6] Ground elevations on the tract, based on a datum plan approved by the Town Engineer. For land that slopes less than 2%, show spot elevations at all breaks in grade, along all drainage channels or swales and at selected points not more than 100 feet apart in all directions. For land that slopes 2% or more, either show contours with an interval of not more than five feet if the ground slope is regular and such information is sufficient for planning purposes, or show contours with an interval of not more than two feet if the land slope is irregular or if more detailed data is necessary for preparing plans and construction drawings

[7] Subsurface conditions on the tract, if required by the Town Board or Planning Board: location and results of tests made to ascertain subsurface soil, rock and groundwater conditions; depth to groundwater less than five feet below the surface; and location and results of soil percolation tests if individual sewage disposal systems are proposed.

DRAFT

[8] Other conditions on the tract: watercourses, marshes, rock outcrops, wooded areas, isolated preservable trees one foot or more in diameter, houses, other buildings and other significant features.

[9] Other conditions on adjacent land: approximate direction and gradient of the ground slope, including any embankments or retaining walls: power lines or towers; owners of adjacent unplatted land; and subdivision plat names, recording date and number of adjacent platted land.

[10] All existing buildings, sewers, water mains, culverts, petroleum or petroleum product lines, fire hydrants and other utilities and other significant man-made features.

[11] All existing streets on or adjacent to the tract, including names, right-of-way widths, and pavement widths.

[12] All existing property lines, easements and rights-of-way and the purpose for which the easements of rights-of-way have been established.

[13] Location and width of all proposed streets, alleys, rights-of-way and easements; proposed lot lines with approximate dimensions; and playgrounds, public buildings, public areas and parcels of land proposed to be dedicated or reserved for public use.

[14] Sites, if any, for multifamily dwellings, shopping centers, churches, industry or other nonpublic uses, exclusive of single-family dwellings.

[15] The names of owners of all abutting unplatted land and the names of all abutting subdivisions.

[16] Where the preliminary plat covers only a part of the subdivider's entire holdings, a sketch shall be submitted of the prospective street layout for the remainder.

[17] Copies of the proposed deed restrictions, if any, shall be attached with the preliminary plat.

[18] Land title and survey; deed description according to official records; names and addresses of record owners; the map and date of the survey of the tract boundaries (including all pertinent bearings and distances) made and certified by a registered land surveyor, tied into established Town reference points and, where possible, related to the state system of plan coordinates established by Chapter 545 of the Laws of 1938; and notations stating acreage, scale, North point, datum and bench marks, as established by townwide drainage study.

DRAFT

[19] Key plan at a scale of one inch equals 1,000 feet, showing locations, street layout and boundaries of the subdivision relative to the surrounding area.

[20] Proposed lot lines and lot numbers.

(c) Supplementary materials. Each preliminary plat submitted for approval must be accompanied by the following supplementary materials:

[1] When required by the Board, the preliminary plat should include the following (all elevations shall be based on a datum plan established by the comprehensive Town-wide drainage study:

[a] Profiles showing existing ground surface and proposed street grades, including extensions for a reasonable distance beyond the limits of the proposed subdivision.

[b] Typical cross sections of the proposed grading, roadway and sidewalk.

[c] Preliminary designs of any bridges and culverts which may be required.

[d] Preliminary plan of proposed water mains to connect with existing public water supply, or an alternative means of water supply approved by the County Health Department.

[e] Preliminary plan of proposed sanitary sewers, with grades and sizes indicated, connecting with existing sanitary sewerage systems, or alternative means of treatment and disposal approved by the County Health Department.

[f] Preliminary plan for collecting and discharging storm drainage.

[2] Draft of protective covenants to regulate land use in the subdivision and to otherwise protect the proposed development if the subdivider proposes to record such covenants.

[3] A SWPPP, if required for the proposed subdivision under Article II of Chapter 42, Stormwater Management and Erosion and Sediment Control, of the Town Code, together with the recommendation of the Stormwater Management Officer to approve, approve with modifications or disapprove the SWPPP pursuant to this Chapter. The SWPPP shall comply with the requirements of this Chapter and Chapter 42 of the Town Code.

(2) Prerequisites to approval of final plats. Except as permitted under subsection (G) of this Chapter, before final approval of a plat can be granted, the following must be completed:

DRAFT

(a) Public improvements.

[1] Each street or other public place shown on the plat must be suitably graded and paved.

[2] Street signs, sidewalks, streetlighting standards, curbs, gutters, street trees, public utilities, water mains, fire-alarm signal devices (including necessary ducts, cables and other connecting devices), sanitary sewers, storm drains, curbs and sidewalks must be installed in accordance with standards, specifications and procedures acceptable to the appropriate Town departments and in conformance to the Town of Lancaster General Specifications.

(b) Monuments. Suitable monuments must have been placed at block corners and other necessary points as required by the Board.

(c) Recreation. Except as otherwise provided in this section, any fee to the recreation development fund in lieu of parkland reservations must be made before the plat may be approved.

(d) Sections. If the Board has permitted the plat to be divided into sections, approval of the plat may be granted when the requirements of Subsection (2)(a), (b) and (c) of this section are met with respect to the first section of the plat to be filed with the County Clerk. However, no construction may begin in any other portion of the tract until the requirements of Subsection (2)(a), (b) and (c) of this section have been met with respect to the appropriate section of the plat and that section of the plat has been filed with the County Clerk.

(3) Final plat.

(a) Size and legibility.

[1] Ten copies of the subdivision plat submitted for final approval shall be a clear, legible, white print or an ink drawing.

[2] Final plat shall be on linen or canvas-backed paper sheets not larger than 20 inches by 40 inches overall. It is recommended that, as far as practicable, final plat sheets be held to the following overall sizes: 20 inches by 20 inches and 20 inches by 40 inches. Where necessary to avoid sheets larger than the maximum size prescribed above, final plats shall be drawn in two or more sections accompanied by a key diagram showing the relative location of the sections.

(b) Scale and information.

[1] The final plat shall be at a scale of not more than 100 feet to the inch, and shall include the following information:

DRAFT

[a] Subdivision name or identifying title.

[b] North point, scale and date.

[c] Primary control points, approved by the Town Engineer, or descriptions and ties to such control points, to which all dimensions, angles, bearings and similar data on the plat are referred.

[d] Name and address of the record owner and subdivider.

[e] Name and seal of the registered professional engineer or surveyor responsible for the plat.

[f] Boundaries of the tract.

[g] Street lines, lot lines, rights-of-way, easements and areas dedicated or proposed to be dedicated to public use.

[h] Sufficient data to determine readily the location, bearing and length of every street, lot and boundary line, and to reproduce such lines on the ground.

[i] The length of all straight lines, radii, lengths or curves and tangent bearings for each street.

[j] Purposes of any easements, other rights-of-way and sites, other than residential lots which are dedicated or reserved.

[k] The proposed building setback line for each street, or the proposed placement of each building.

[l] Location and width of all private driveways.

[m] Location, size and invert elevation of all sanitary and storm sewers, and the location of all manholes, inlets and culverts.

[n] All dimensions shall be shown in feet and in hundredths of a foot.

[o] Cross sections and profiles of streets, drains and sewers showing grades approved by the Town Engineer. The profiles must be drawn to standard scales and elevations and based on a datum plan supplied by the comprehensive Town-wide drainage study.

[p] Lot numbers.

[q] Names of streets within and adjacent to the subdivision.

[r] Permanent reference monuments shall be shown and specified by the Engineer.

DRAFT

[s] Certification by a registered land surveyor (with his name, address, New York State license number and seal) certifying to accuracy of survey and plat.

[t] Wherever practicable, the names of any adjoining subdivisions shall be shown.

[u] Wherever practicable, the names of the owners of any contiguous unplatted land shall be shown.

[v] Certificate of approval by the Erie County Health Department.

[w] Certificate of dedication of streets and other public property.

[x] Certificate of approval by the Town Engineer.

[y] Certificate of approval by the Highway Superintendent.

[z] Certificate of approval by the Planning Board.

[aa] Evidence of review by the Erie County Planning Board.

[bb] Certificate for approval by the Town Board.

[2] Accompanying documents. The final plat shall include thereon or be accompanied by:

[a] An affidavit that the applicant is the owner or equitable owner of the land proposed to be subdivided.

[b] A statement duly acknowledged before an officer authorized to take acknowledgements of deeds and signed by the owner or owners of the property, to the effect that the subdivision as shown on the final plat is made with his or their free consent and that it is desired to record the same.

[c] Certification by the Engineer that the subdivider has met the requirements of this Chapter.

[d] Certification by the Erie County Health Department that water and sewage disposal has met its requirements.

[e] Typical cross sections, street profiles and drainage details for all streets. Such profiles shall show at least the following: the existing (natural) grade along the proposed street center line; the existing (natural) grade along each side of the proposed street right-of-way; the proposed finished center line grade or proposed finished grade at the top of curbs; the sanitary sewer mains and manholes; and the storm sewer mains, inlets, manholes and culverts.

DRAFT

[f] Protective covenants, if any, in form for recording, including covenants governing the maintenance of unceded public spaces or reservations, if such covenants are to be recorded.

[g] Offers of cession in a form certified as satisfactory by the Town of Lancaster Attorney of all land included in streets, highways or parks not specifically reserved by the subdivider. Approval of the final plat by the Town Board shall not constitute an acceptance by the Town of Lancaster of the dedication of any street, highway or park or another open public area.

[h] A statement by the Town Attorney approving the legal sufficiency of all offers of cession, of all covenants governing the maintenance of unceded public space or sewer districts and of any bond offered in lieu of the completion of required subdivision improvements.

[i] Other requirements. Such other certificates, affidavits, enforcement or other agreements as may be required by the Town Board in the enforcement of these regulations. In special cases where there are potential hazards of flooding or other hazards, in the opinion of the Town Engineer, the Town may require the services of an independent engineer or expert to recommend conditions under which the subdivision may be approved. The expense of such engineer or expert shall be borne by the subdivider.

[j] A SWPPP, if required for the proposed subdivision under Article II of Chapter 42, Stormwater Management and Erosion and Sediment Control, of the Town Code, together with the recommendation of the Stormwater Management Officer ("SMO") to approve, approve with modifications, or disapprove the SWPPP. Such SWPPP shall comply with the requirements of this Chapter and Chapter 42 of the Town Code.

J. Variances.

(1) Where there are practical difficulties or unnecessary hardships in the way of carrying out the strict letter of these regulations, the Town Board shall have the power to vary or modify the application of any of the requirements herein relating to the use, layout and platting of land for subdivisions, so that the spirit of the regulations shall be observed, public safety and welfare secured and substantial justice done.

(2) Applications for modifications and variances shall be submitted, in writing, by the subdivider at the time the preliminary plat or final plat is filed with the Town Board. The application shall state fully the grounds and all the facts relied upon by the applicant.

K. Penalties for Offenses.

(1) Any person or corporation who shall violate any of the provisions of this Chapter or fail to comply therewith or with any of the requirements thereof, or who shall

DRAFT

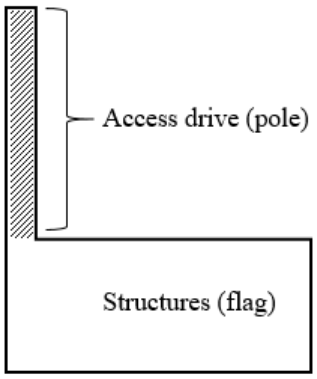
build or alter any building in violation of any detailed statement of plan submitted and approved hereunder, shall be guilty of a Class A misdemeanor, as defined in the New York State Criminal Procedure Law, punishable by a fine not exceeding $1,000 or imprisonment for a period not to exceed one year, or both. Each week's continued violation shall constitute a separate additional offense. The owner or owners of any building or premises or part thereof where anything in violation of this Chapter shall be placed or shall exist, and any architect, builder, constructor, agent, person or corporation employed in connection therewith and who may have assisted in the commission of any such offense shall be guilty of a separate offense and, upon conviction thereof, shall be fined or penalized as herein provided..

§ 50-39. **Lot division; flag lots.**

A. No lot shall be divided so that the yards or other required open spaces shall be smaller than required by this ordinance.

B. Flag lots.

(1) Definition: A lot shaped like a flag on a pole, where the "pole" does not meet the minimum lot width requirement. The flag-shaped area is the portion of a lot where all structures may be located (the "flag"). The pole-shaped area is the portion of the lot by which vehicular access to the flag area from its adjoining road is located (the "pole"). An example of a flag lot is below.



(2) Prohibition. No boundary line adjustment, lot line adjustment, subdivision approval, or any other approval shall be granted which has the effect of creating one or more flag lots.

(3) Nonconforming flag lots. Flag lots in existence as of the effective date of this Section shall constitute nonconforming lots, provided that the pole does not meet minimum frontage requirements for the district in which the lot is located.

DRAFT

(4) Site plan review pursuant to § 50-75 is required prior to the issuance of any building permit on a flag lot. In addition to the standards set forth in § 50-75, the Planning Board and the Town Board shall apply the following standards:

(a) Flag requirements.

[1] The minimum area of the flag shall be one and a half (1.5) times greater than that required in the zone and shall constitute the buildable area. The area of the pole shall not be included in calculating the buildable area.

[2] The minimum building setbacks shall be equal to the minimum setbacks of the zone measured within the buildable area.

(b) Pole requirements.

[1] The minimum width shall be 30 feet.

[2] The pole shall not cross or encroach upon any waters, wetland, or similar topographic features without provision of an adequate structure approved by the Town Engineer and any appropriate outside agencies.

[3] The pole shall lie along a property line which is significantly perpendicular to the public street. In no instance will one pole be abutting another.

[4] Parking of vehicles is prohibited in any portion of the pole.

(c) Access driveway.

[1] The access drive shall be contained within the flagpole.

[2] The access drive shall have a minimum width of 12 feet. Driveways shall be set back at least five feet from the adjacent property line(s).

[3] The access drive shall be paved from the front yard setback of the zone to the edge of the pavement in the public right-of-way. At minimum, the remainder of the access drive shall be surfaced with stone to a minimum depth of six inches compacted over a firm subbase.

[5] Prior to the issuance of a building permit, stone shall be placed from the public street for a distance of 50 feet to prevent dirt from tracking onto the public street.

DRAFT

[6] Prior to the issuance of a certificate of occupancy, the access drive shall be constructed to the point necessary to provide access to the affected lot.

[7] A vegetative visual buffer, approved by the Town Forester, beginning at the front yard setback line from the public right-of-way extending to the buildable portion of the flag lot shall be planted on the side of the access drive nearest the property line of the adjacent lot.

(d) Premises identification. The address identification shall be legible and placed in a position that is visible from the road fronting the property.

(e) Location of utilities. Utilities must be depicted and approved on the site plan.

(f) Drainage plan. Grading and drainage systems must discharge to a public or other appropriate storm water system approved by the Town Engineer.

§ 50-40. Yards for outdoor storage.

In any commercial or industrial district where outdoor storage is permitted, the yard and landscaping requirements for parking, loading and stacking areas shall apply to the storage areas.

§ 50-41. Composting

A. As permitted elsewhere in this Chapter, composting or other outdoor storage of yard waste and/or vegetative material is subject to the issuance of a special use permit by the Town Board on the condition that each such facility:

(1) Shall be carried out on a parcel of at least 100 acres.

(2) Shall be located at least 1,000 feet from any adjacent use which is nonagricultural and nonresidential in nature and from any dedicated highway.

(3) Shall be located a distance of at least 1,500 feet from any adjacent use which is residential in nature.

(4) Shall be surrounded completely by a berm a minimum of 15 feet in height from existing ground level, and any material being stored shall not exceed five feet in height.

(5) Shall include a well-maintained asphalt or concrete drive at least 20 feet in width, running from the nearest dedicated highway to the site and with sufficient access for heavy fire and rescue apparatus to all areas of said facility.

(6) Shall provide access to a fully functioning fire hydrant within 500 feet of any compost material storage and capable of supplying an adequate water supply for

the purpose of fire suppression and shall be subject to acceptance and approval by the Chief in whose fire district the facility is located.

(7) Shall provide for containment, collection, and disposal for refuse of all leachate from the stored materials. Said leachate shall be prevented from migrating off site and from contaminating soil or groundwater on site.

(8) Shall only be permitted to engage in aerobic composting processes. Anaerobic composting shall not be permitted.

(9) Shall provide a performance bond to the Town of Lancaster as a part of the special use permit in the sum of not less than $1,000,000, which must be renewed on an annual basis. Posting of the security may be by cash bond or its equivalent from a surety found acceptable by the Town Board.

(10) Shall submit detailed closure plans to the Town of Lancaster at least 90 days prior to the planned closure date. Such plans shall include the proposed closure date and the plan for removal of materials and cleanup of the site. The performance bond shall remain in effect until such time as the Town Board is satisfied that the closure of the facility has been completed in strict conformance with the plan approved by the Town Board.

(11) The issuance of the special use permit shall be subject to permit fees of $1,000 for less than one acre of composting use, or for larger uses, $3,000 for the first acre of composting use plus $2,000 for each additional acre of composting use.

Article IX. Communications Towers

§ 50-42. Legislative intent.

The Town of Lancaster recognizes the increased demand for wireless communications transmitting facilities and the need for the services they provide. Often, these facilities require the construction of a communications tower. The intent of this Section is to protect the Town's interest in properly siting towers in a manner consistent with sound land use planning, while also allowing wireless service providers to meet their technological and service objectives.

§ 50-43. Co-locating antennas on existing structures.

Communication antennas may be attached to existing communication towers, water tanks, buildings, or structures in any zoning district, upon application made to the Town Clerk and upon review and approval by the Town Board. Such application shall be subject to environmental review pursuant to SEQRA.

§ 50-44. Communications towers, site plan, and special use permit.

Communication towers and accessory structures in all zoning districts shall be issued a building permit only after an application for site plan review pursuant to § 50-75 of the Town Code has

DRAFT

been submitted to the Town, duly reviewed by the Planning Board with a recommendation made to the Town Board and upon action by the Town Board granting a special use permit based upon the review of the site plan.

§ 50-45. Town-owned property; exemption by Town Board.

The Town Board reserves the right to waive the special use permit requirements for communication towers proposed to be located on Town property, but even in the event of such waiver an environmental review pursuant to SEQRA must be conducted prior to issuance of a building permit.

§ 50-46. Special use permit requirements.

Prior to the issuance of a special use permit for a communications tower by the Town Board, the following requirements shall be addressed by the Planning Board and the Planning Board shall make a recommendation to the Town Board:

A. Application and site plan. All applicants for a tower special permit shall make written application to the Planning Board. The application shall include a site plan setting forth specific site data on a map, acceptable in form and content to the Planning Board, which shall be prepared to scale and in sufficient detail and accuracy and which shall show the following:

(1) The location of property lines and permanent easements;

(2) The location of the communications tower, together with guy wires and guy anchors, if applicable;

(3) A side elevation or other sketch of the tower showing the proposed antennas and elevations of any accessory structures;

(4) The location of all structures on the property and all structures on any adjacent property within 10 feet of the property lines, together with communications tower;

(5) The names and addresses of adjacent landowners;

(6) The location, nature and extent of any proposed fencing and landscaping or screening;

(7) The location and nature of proposed utility easements and access road, if applicable;

(8) The maximum height of the proposed tower;

(9) A copy of the FCC License;

(10) Affirmation of compliance with federal radio frequency emission standards; and

DRAFT

(11) An engineer's opinion as to structural capacity of the tower or other elevated structures

(12) Proof of notification (certified mail return receipts) by the applicant to all property owners within 500 feet of the boundaries of the property that the communications tower is to be constructed on.

B. Preference for higher-intensity use districts. The Town Board may express a preference that the proposed facility be located in a higher intensity use district or on higher intensity use property, provided that there is a technologically feasible and available location. A guideline for the Town Board's preference, from most favorable to least favorable districts/property, is as follows:

(1) Property with an existing structure suitable for collocation;

(2) Municipal or governmentally owned property; fire associations, fire departments and fire companies; Lancaster Volunteer Ambulance Corps;

(3) LI-Light Industrial; GI-General Industrial

(4) HC-Heavy Commercial; LC-Light Commercial; and

(5) Residential districts.

C. Aesthetics. In order to minimize any adverse aesthetic effect on neighboring residences to the extent possible, the Town Board may impose reasonable conditions on the applicant, including the following:

(1) The Town Board may require a monopole or guyed tower (if sufficient land is available to applicant) instead of a freestanding communications tower.

(2) The Town Board may require a camouflaged tower.

(3) The Town Board may require reasonable landscaping consisting of trees or shrubs to screen the base of the communications tower and/or to screen the tower to the extent possible from adjacent residential property. Existing on-site trees and vegetation shall be preserved to the maximum extent possible.

(4) The Town Board may require the applicant to show that it has made good faith efforts to collocate on existing towers or other available and appropriate structures and/or to construct new towers near existing towers in an effort to consolidate visual disturbances.

(5) Towers should be designed and sited so as to avoid, whenever possible, application of Federal Aviation Administration (FAA) lighting and painting requirements. Towers shall not be artificially lighted except as required by the FAA. Towers shall be painted a galvanized finish or matte gray unless otherwise required by the FAA.

DRAFT

(6) No tower shall contain any signs or advertising devices.

D. Radio-frequency effects. The Town Board recognizes that federal law prohibits the regulation of cellular and PCS communications towers based on the environmental effects of radio frequency emissions where those emissions comply with FCC standards for those emissions. The Town Board may, however, impose a condition on the applicant that the communications antennas be operated only at Federal Communications Commission (FCC) designated frequencies and power levels.

E. Traffic, access and safety:

(1) A road turnaround and one parking space shall be provided at the tower site to assure adequate emergency and service access. Maximum use of existing roads, public or private, shall be made.

(2) All communications towers and guy anchors, if applicable, shall be enclosed by a fence not less than eight feet in height or otherwise sufficiently protected from trespassing or vandalism.

(3) The applicant must comply with all applicable State and Federal regulations, including but not limited to FAA and FCC regulations.

(4) The tower must be set back a minimum of the height of the tower from all property lines and any existing building for a fall zone.

(5) The applicant shall agree to remove the tower if the telecommunications facility becomes obsolete or ceases to be used for its intended purpose for 12 consecutive months.

The Town Board shall require the applicant to provide a demolition bond (in an amount determined by the Town Board based on the cost of removal) for the purpose of removing the telecommunications facility in case the applicant fails to do so as required above.

§ 50-47. **Height.**

Communications towers permitted under this Chapter shall be exempt from the height limitations otherwise applicable in the district in which they are located.

§ 50-48. **Procedure.**

Upon receipt of a completed application, the Town Board shall hold a public hearing and shall comply with all of the requirements of § 50-78 of the Code of the Town of Lancaster for the approval of special use permits. The Town Board shall review the application for compliance with the provisions of this Chapter and shall determine that the location of the proposed communications tower has been made known to residents within a 500-foot radius (pursuant to § 50-46), and that it is in accordance with the principals and requirements stated herein.

DRAFT

§ 50-49. **Exemptions.**

A. Communications tower and antennas may be repaired and maintained without restrictions.

B. Antennas used solely for residential household television and radio reception.

C. Satellite antennas measuring two meters or less in diameter regardless of location.

§ 50-50. **Waivers.**

The Town Board may waive or vary any requirements in this Local Law for good cause shown.

§ 50-51. **Fees.**

See Chapter **30** of the Town Code.

Article X. Small Wireless Facilities.

§ 50-52. **Conditions Applying to All Small Wireless Facilities**

A. Definitions. The terms used in this Section shall have the meanings indicated in Article III, Definitions.

B. Purpose and Legislative Intent.

(1) The Town desires to encourage small-cell wireless telecommunication infrastructure investment by providing a fair and predictable process for the deployment, while enabling the Town to promote the management of its public ROW in the overall interests of the public health, safety, and welfare. The Town recognizes that wireless facilities are critical to delivering wireless access to advanced technology, broadband, and 911 services to homes, businesses, and schools within the Town, and new technology has increased the need for towers and antennas to serve the Town. The Town further recognizes that SWF often may be deployed most effectively in the ROW. The Town desires to enact a legal framework which will permit the expedited review process for the deployment of such SWF when specified criteria are met and to permit placement of towers and antennas in locations which will allow telecommunications services to be rendered in conformity with both the Federal Telecommunications Act of 1996, and with the goals of local comprehensive plans and zoning ordinances.

(2) In enacting this Section, the Town is establishing uniform standards to address issues presented by SWF, including, without limitation, to:

(a) Prevent interference with the use of streets, sidewalks, alleys, parkways, and other public ways and places;

DRAFT

(b) Prevent the creation of visual and physical obstructions and other conditions that are hazardous to vehicular and pedestrian traffic;

(c) Prevent interference with existing facilities and operations of facilities presently lawfully located in rights-of-way or public property

(d) Ensure reasonable efforts are made to preserve the character of neighborhoods in which facilities are installed;

(e) Protect community aesthetics and visual and historic resources.

(f) Protect against environmental damage, including damage to trees;

(g) Facilitate the installation of SWF to provide benefits of reliable access to wireless telecommunications technology, broadband, and 911 services to homes, business, and schools within the Town.

C. Applicability. This Section applies to all Applications and requests for approval to construct, install, modify, co-locate, relocate, or otherwise deploy SWF.

D. Application Requirements.

(1) Special Use Permit Application. All persons wishing to construct, install, modify, co-locate, relocate, or otherwise deploy SWF must submit an application for a special use permit for approval by the Town Board of the Town of Lancaster. The SWF Special Use Permit Application shall contain the following, to include 9 hard copies and 1 digital copy:

(a) Letter Application and Applicable Application Fee(s). The letter application must contain a detailed description of the proposal, the number of SWFs involved in the subject application, their proposed locations, and a description of the proposed locations, including the zoning districts and nearby land uses. The letter application must also contain the Applicant's name and contact information, as well as the names and contact information for all consultants acting on behalf of the Applicant, if any.

(b) Owner's Authorization and/or Evidence of Property Rights. The Applicant must demonstrate it has adequate real property rights for the installation and maintenance of the SWF. This would include, but not be limited to, owner authorization, an easement, a lease, and/or a License issued pursuant to this Section. The Applicant bears all risk that it has the legal right to construct the SWF in the designated location.

(c) Project Plans. The Applicant must provide a fully dimensioned site plan and elevation drawings prepared and sealed by a New York-licensed engineer showing any existing wireless facilities with all existing transmission equipment and other improvements, the proposed SWF with all proposed transmission equipment and other improvements and the legal boundaries

of the leased, licenses, or owned area in the general vicinity surrounding the proposed SWF and any associated access or utility easements.

(d) Site Photos and Photo Simulations. The Applicant must provide photographs and simulations that show the proposed SWF in context of the site from reasonable line-of-sight locations from public streets or other adjacent viewpoints, together with a map that shows the photo location of each view angle. These simulations must indicate both location of the proposed SWF as well as design aesthetics that reflect compliance with this Section.

(e) RF Compliance Demonstration. The Applicant must provide an RF exposure compliance report prepared and certified by a New York-licensed engineer acceptable to the Town that certifies that the proposed SWF, as well as any co-located SWF, will comply with applicable federal RF exposure standards and exposure limits. The RF report must include the actual frequency and power levels (in watts effective radiated power ("ERPP") for all existing and proposed antennas at the site and exhibits that show the location and orientation of all transmitting antennas and the boundaries of areas with RF exposures in excess of the uncontrolled/general population limit (as that term is defined by the FCC) and also the boundaries of the areas with RF exposures in excess of the controlled/occupations limit (as that term is defined by the FCC)). Each such boundary shall be clearly marked and identified for every transmitting antenna at the project site in accordance with FCC requirements, if applicable.

(f) Acoustic Analysis. The Applicant must provide a written report that analyzes acoustic levels for the proposed SWF and all associated equipment. The acoustic analysis must be prepared and certified by an engineer and include an analysis of the manufacturer's specifications for all noise-emitting equipment and a depiction of the proposed equipment relative to all adjacent property lines. This requirement may be satisfied by providing manufacturers specifications of the SWF demonstrating that the equipment does not generate noise, or generates noise at an imperceptible level.

(g) Project Purpose Statement/Need Demonstration. The Applicant must provide a written statement that includes:

[1] A description of the technical objectives to be achieved, including the services to be offered and/or improvement of existing services;

[2] An annotated topographical map that identifies the targeted service area to be benefited;

[3] The estimated number of potentially affected users in the targeted service area; and

[4] Full-color signal propagation maps with objective units of signal strength measurements that show the Applicant's current service coverage levels from all adjacent sites without the proposed site, predicted service coverage levels from all adjacent sites with the proposed site, and predicted service coverage levels from the proposed site without all adjacent sites (or a statement that the objectives are other than coverage-related).

(h) Alternatives Analysis. The Applicant must list all existing structures considered as alternatives to the proposed location, together with a general description of the site design considered at each location. The Applicant must also provide a written explanation for why the alternatives considered were unacceptable or not feasible, unavailable or not as consistent with the design standards. This explanation must include a comparative analysis and such technical information and other factual justification as are necessary to document the reasons why each alternative is unacceptable, not feasible, unavailable, or not as consistent with the design standards in this Section as the proposed location. This would include an analysis of the siting preferences set forth in this Section.

(i) The Applicant shall provide manufacturer's information for the SWF and support structure, if applicable.

(j) The Applicant shall provide technical specifications of the SWF and support structure, if applicable, and evidence that such structure is capable of handling the addition of SWF.

(k) The Applicant shall provide a written maintenance and removal plan, made to and acceptable by the Town, to include an agreement by the Applicant and/or owner to remove all the components of the SWF in the event the facility becomes non-functional, ceases to be used for its originally intended purposes or is otherwise abandoned, as determined by the Town. The maintenance and removal plan shall remain in full force for the life of the SWF. An acceptable bond and/or surety, for the purposes of removing the SWF, submitted to the Town for review, shall be purchased and remain in force for the life of the SWF.

(l) The Applicant shall provide any other items that the Town shall deem necessary for a thorough and complete review of the proposal.

(2) One Application Required. Although each SWF requires its own special use permit, the Applicant need submit only one Application regardless of the number of proposed SWF or locations. The Board may, in its sole discretion, deny the Application, grant the Application in full, or partially grant the Application by issuing special use permits for only some of the SWF proposed in the Application.

DRAFT

(3) Maintenance. Subject to the requirements for the initial application, an Application shall not be required for routine maintenance or in-kind replacement, unless otherwise specified within this Section. In-kind replacement shall mean replacement of an existing permitted SWF with another SWF of the substantially same dimensions, appearance, and characteristics. Any other modifications or replacements of any portion of a SWF shall require an amendment to the special use permit, requiring compliance with all applicable requirements and procedures set forth in this Section.

(4) Application Fees. The Applicant shall pay the Town a fee for review of the special use permit Application, in an amount to be determined by the Town Board by resolution, which may be amended from time to time by further resolution.

(5) Third-Party Professional Consultants. The Town, in its sole discretion, may retain third-party consultant(s) to assist in the review of a proposed SWF. The cost of such third-party consulting services shall be reimbursed by the Applicant to the Town within thirty (30) days of the Town receiving an invoice for third party consulting services.

E. Exceptions to the Special Use Permit Requirements

The following SWFs shall be exempt from the special use permit requirements and, upon compliance with the substantive requirements of this Section, require only an approval determination from the Code enforcement officer. The fee for this review by the Code enforcement officer shall be in an amount to be determined by the Town Board by resolution, which may be amended from time to time by further resolution.

(1) SWFs that are Concealed Installations on Buildings within the following zoning districts: LC, GC, LI, and GI.

(2) Collocation on existing Poles that are within the following zoning districts: LC, GC, LI, and GI.

F. Site Location Guidelines

(1) Preferred Locations. The Town prefers co-location and siting in manufacturing and/or business districts as defined in this Chapter over residential zoning districts. The Town prefers collocation as opposed to the construction of a new support structure. The Town prefers the siting on existing buildings, provided they are camouflaged or concealed.

(2) Discouraged Locations. The Town discourages new support structures and the location in residential zoning districts, although siting in residential districts may be necessary if no alternatives are available to meet the provider's objectives. Where possible, efforts should be made to co-locate or to locate in manufacturing or business zoning districts. If location in a residential zoning district is necessary, techniques to minimize aesthetic impacts are mandatory, including Camouflage.

(3) Prohibited Locations. The Town prohibits any structures or parts of structures associated with SWF placement from obstructing access to above- or underground traffic control infrastructure, public transportation vehicles, shelters, street furniture, or other improvements, above- or underground utility infrastructure, fire hydrants, doors, gates, or other ingress and egress points to any building appurtenant to the ROW, or any fire escape. Ground-mounted equipment shall not be closer that twelve (12) feet from any existing lawful encroachment in the ROW and driveway aprons.

G. Design Standards

(1) Construction categories. Each SWF shall comply with the standards set forth for each location type.

(a) Existing support structure or replacement support structure of the same type, size, and height, in the same location.

[1] Equipment. All equipment must be installed as close to the Support Structure as technically feasible to minimize its visibility from public view to the greatest extent feasible. All conduits, conduit attachments, cables, wires, and other connectors shall be concealed from the public view to the greatest extent feasible. Ground-mounted equipment is not preferred and shall be minimized to the greatest extent feasible. Where used, ground-mounted equipment must incorporate concealment techniques in compliance with the requirements of subsection (3) of this Section G.

[2] Minimum Clear Height. With the exception of any ground-mounted equipment, no part of the SWF shall be less than ten (10) feet above grade or the maximum height permitted by the owner of the utility pole as confirmed by the utility pole owner in writing.

[3] Maximum Height. No part of the SWF shall exceed ten (10) feet above the existing Support Structure. Ground mounted cabinets shall be secured to a concrete slab and shall not exceed three feet in height.

[4] Maximum Volume. The maximum volume of each antenna shall not exceed six (6) cubic feet.

[5] Maximum Equipment Volume. The maximum equipment volume shall not exceed twenty-eight (28) cubic feet, or fifteen (15) cubic feet for ground-mounted equipment.

[6] Reservation of Rights. The Town reserves its right to request additional information, analysis, studies, including further expert opinion, at the Applicant's expense, pertaining to the Application and any issues of concern.

DRAFT

[7] Each SWF shall be on one support structure.

[8] Each SWF shall be at least 500 feet from any other SWF owned by the same Carrier.

(b) New support structure

[1] Basis. The Town will consider new poles only if the Applicant can demonstrate that replacing or utilizing an existing pole is not possible or feasible. Any new poles must meet all Town and other applicable laws.

[2] Support Structure Requirements. All Applicants shall propose new Support Structures that complement the community character of the area, and any applicable design guidelines that may exist for the area. When existing utility poles exist, new support structures may feature a similar design and aesthetic. Where no existing utility poles exist, architecturally significant support structures shall be proposed, including, but not limited to, flag poles and decorative light standards.

[3] Equipment. All equipment must be installed as close to the support structure as technically feasible to minimize its visibility from public view. All conduits, conduit attachments, cables, wires, and other connectors shall be concealed from the public view to the greatest extent feasible Ground-mounted equipment is not preferred and shall be minimized to the greatest extent feasible. Where used, ground-mounted equipment must incorporate concealment techniques in compliance with the requirements of subsection (3) of this Section G.

[4] Minimum Clear Height. With the exception of any ground-mounted equipment, no part of the SWF shall be less than ten (10) feet above grade or the maximum height permitted by the owner of the utility pole as confirmed by the utility pole owner in writing.

[5] Maximum Height. No part of the SWF shall exceed fifty (50) feet above ground level or ten (10) feet above the average height of all Utility Poles within a five hundred (500) foot radius, whichever is greater. This is the maximum height and the Town may approve a lesser height depending on the surrounding structures and character. Ground mounted cabinets shall be secured to a concrete slab and shall not exceed three feet in height.

[6] Maximum Diameter. The maximum diameter of any new poles not intended for public distribution shall not exceed twenty-four (24) inches at the base.

DRAFT

[7] Maximum Volume. The maximum volume of each antenna shall not exceed six (6) cubic feet.

[8] Maximum Equipment Volume. The maximum equipment volume shall not exceed twenty-eight (28) cubic feet, or fifteen (15) cubic feet for ground-mounted equipment.

[9] Installation. Any new poles not intended for public distribution shall:

[a] Be installed as far as practicable off the traveled way;

[b] Meet the height requirements set forth herein;

[c] Not be installed in the ROW unless fixed objects exist at the same or closer distance from the roadway;

[d] Not be any closer to the roadway than any existing pole line;

[e] Be buried with no foundation unless an exception is justified and approved by the Town Engineer or designee; and

[f] To the extent practicable, be located outside of residentially-zoned neighborhoods.

[10] Reservation of Rights. The Town reserves its right to:

[a] Reject new poles for any of the following reasons: traffic, safety, conflict with existing structure or utilities, conflict with pedestrian or complete street features, or future planned activities. Any notice of denial must be in writing and explain the basis for the denial, and be sent to the Applicant and the authority controlling the ROW, if not controlled by the Town of Lancaster.

[b] Request additional information, analysis, studies, including further expert opinion, at the Applicant's expense, pertaining to the Application and any issues of concern.

(c) Concealed Installation on Building.

[1] Equipment. All equipment must be installed such that its visual appearance is consistent with other accessory mechanical and/or building service appurtenances. All conduits, conduit attachments, cables, wires, and other connectors shall match the color of existing building mechanicals or the adjacent building material color. Ground-mounted equipment is not preferred and shall be minimized to the greatest extent feasible. Where used, ground-mounted equipment must incorporate concealment techniques in compliance with the requirements of subsection (3) of this Section G.

DRAFT

[2] Minimum Clear Height. With the exception of any ground-mounted equipment, no part of the SWF shall be less than ten (10) feet above grade.

[3] Maximum Height. No part of the SWF shall exceed ten (10) feet above the building roof or parapet wall. Ground-mounted cabinets shall be secured to a concrete slab and shall not exceed three feet in height.

[4] Maximum Volume. The maximum volume of each antenna shall not exceed six (6) cubic feet.

[5] Maximum Equipment Volume. The maximum equipment volume shall not exceed twenty-eight (28) cubic feet, or fifteen (15) cubic feet for ground-mounted equipment.

[6] Applications. Applicants must secure an approved building permit.

(2) Engineering Requirements. The applicant must provide an installation design prepared by a professional engineer licensed in New York State that demonstrates the pole strength of the pole to be used.

(3) Aesthetic Requirements. The character of the neighborhood and the visual quality of the surroundings must be taken into account when installing SWF, whether to new or existing poles. In order to avoid unnecessary adverse visual impacts and to preserve the area in which the SWFs are being installed, and in addition to the conditions set forth above, all SWFs shall meet the following requirements:

(a) Poles and equipment shall be painted in a neutral color that is consistent with other new and existing poles in the general geographic area so as to reduce visual intrusiveness, unless existing surrounding poles are not painted.

(b) Poles shall be constructed of the same or similar material as other new and existing poles in the general geographic area.

(c) Poles shall be constructed in the same or similar shape as other new and existing poles in the general geographic area.

(d) Poles may be camouflaged or disguised as deemed appropriate by the Town Board.

(e) No artificial lighting is permitted on the pole unless otherwise required by law or permitted *e.g.*, where no existing utility poles exist and a decorative light pole is used with express permission. Any permitted lighting must be consistent in design and bulb type with other lighting fixtures in the general geographic area.

DRAFT

(f) Commercial signage is not permitted on any pole unless already existing at the time of the installation.

(g) Equipment shall be affixed to the pole in a tight, neat, and orderly fashion. Where possible, equipment shall be flush mounted with the pole and in no case shall offset mounting exceed the greater of six (6) inches or the minimum distance permitted by the owner of the pole as confirmed by the owner of the pole in writing. No wires may be loose or dangling, with a preference that the wires be enclosed within the pole where possible.

(h) Equipment shall consistent in size with the pole of which it is being attached and minimally shall be consistent with the suggested designs shown in the Appendix to this Section.

[1] Maximum Volume. The maximum volume of each antenna shall not exceed six (6) cubic feet.

[2] Maximum Equipment Volume. The maximum equipment volume shall not exceed twenty-eight (28) cubic feet.

(i) Ground mounted equipment shall be minimized to the greatest extent feasible. Where used, ground equipment shall incorporate camouflage techniques matching color and materials of the wireless support structure, unless other materials or colors are approved by the Town. Applications shall include proposed camouflage techniques for ground-mounted equipment, which may include, but are not limited to: strategic choice of color, paint, and/or materials, landscaping, placement in less visible locations, and placement within existing or replacement street furniture.

H. Waiver. For good cause shown, the Town Board may grant a waiver of any of the provisions of this Section. The burden of demonstrating good cause is on the Applicant.

I. Standard Conditions of Approval

In addition to any other conditions imposed by the Town Board or the Code enforcement officer in the case of applications exempt from the special use permit requirement, special use permits and approvals by the Code enforcement officer for the installation of SWFs shall be automatically subject to the conditions set forth herein. The Town Board and/or the Code enforcement officer shall have discretion to modify or amend these conditions on a case-by-case basis as may be necessary or appropriate under the circumstances to allow for the proper operation of the approved facility consistent with the goals of this Section.

(1) Approved Plans. Before the Permittee submits any applications to the Building Department, the Permittee must incorporate the Permit, all conditions associated with this Permit and the approved photo simulations into the project plans. The Permittee must construct, install and operate the SWF in strict compliance with the approved plans. Any alterations, modifications or other changes to the approved plans, whether requested by the permittee or required by other

DRAFT

departments or public agencies with, must be submitted in a written request subject to the Building Department prior to review and approval, who may refer the request to the Town Board if it is found that the requested alteration, modification or other change implicates a significant or substantial land use concern.

(2) Build-out Period. The Permit will automatically expire one (1) year from the issuance date unless the Permittee obtains all other permits and approvals required to install, construct, and/or operate the approved SWFs and commences the installation and construction, which includes without limitation any permits or approvals required by any federal, state, or local public agencies with jurisdiction over the subject property, the SWF, or its use. The Town may grant extensions to a date certain when the Permittee shows good cause to extend the limitations period in a written request for an extension submitted at least 30 days prior to the automatic expiration date in this condition.

(3) Maintenance Obligations; Vandalism. The Permittee shall keep the site, which includes without limitation any and all improvements, equipment, structures, and access routes, in a neat, clean, and safe condition in accordance with the approved plans and all conditions in the Permit. The Permittee shall keep the site area free from all litter and debris at all times. The Permittee, at no cost to the Town, shall remove and remediate any graffiti or other vandalism at the site within forty-eight (48) hours after the Permittee received notice or otherwise becomes aware that such graffiti or other vandalism occurred.

(4) Compliance with Laws. The Permittee shall maintain compliance at all times with all federal, state, and local statutes, regulations, orders or other rules that carry the force of law applicable to the Permittee, the subject property, the SWF or any use or activities in connection with the use authorized in the Permit. The Permittee expressly acknowledges and agrees that this obligation is intended to be broadly construed and that no other specific requirements in these conditions are intended to reduce, relieve, or otherwise lessen the Permittee's obligations to maintain compliance with all applicable laws, regulations, orders, and rules.

(5) Inspections. The Permittee expressly acknowledges and agrees that the Town or its designee may enter onto the site and inspect the improvements and equipment upon reasonable prior notice to the Permittee; provided, however, that the Town may, but will not be obligated to, enter onto the site area without prior notice to support, repair, disable, or remove any improvements or equipment in emergencies or when such improvements or equipment threatens actual, imminent harm to property or persons. The Permittee will be permitted to supervise the Town or its designee while such inspection or emergency access occurs.

(6) Contact Information. The Permittee shall furnish the Town with accurate and up-to-date contact information for a person responsible for the SWF, which includes, without limitation, such person's full name, title, direct telephone number,

DRAFT

facsimile number, mailing address, and email address. The Permittee shall keep such contact information up-to-date at all times.

(7) Rescission of Permit for Non-compliance. The Town Board may rescind any Permit issued under this Local Law for review at any time due to noncompliance with applicable law or any approval conditions. At a duly noticed hearing and in accordance with all applicable laws, the Town Board may revoke any such Permit or amend these conditions as the approval authority deems necessary or appropriate to correct any such noncompliance.

(8) Record Retention. The Permittee shall retain full and complete copies of all licenses, permits, and other regulatory approvals issued in connection with the SWF, which includes, without limitation, all conditions of approval, approved plans, resolutions, and other documentation associated with the license, permit, or regulatory approval.

§ 50-53. Conditions Applying to Small Cell Wireless Facilities Located in the Town ROW

A. Applicability

The contents of this Section are applied in addition to the contents of Section 50-52 for Applicants proposing SWF located in the Town ROW.

B. License

Where the proposed SWF is in the Town ROW, before any Application may be submitted, a non-exclusive license to place the SWF is required. No SWF is allowed in the Town ROW unless first a non-exclusive license is obtained from the Town by the Applicant.

(1) No exclusive, irrevocable property right or any other interest is created by the License. There is no right to convey, express or implied, with the License.

(2) The License may not be assigned, except upon written consent of the Town, which shall not be unreasonably withheld, provided the assignee assumes all obligations of the License, agrees to abide by its terms in writing, and meets all other criteria as set forth in this Section.

(3) A general License will be granted per Applicant for all Town ROWs provided that the Applicant meets the requirements for such a License.

(4) An Applicant shall demonstrate the entitlement to use the land for the designated purpose *e.g.*, through demonstration that the Town owns the fee of the highway at issue, through the grant of an easement or a pole attachment agreement, and/or other legal mechanism that may be applicable. The Applicant bears any and all risk that it has the legal right to construct the SWF in the location that it has chosen.

DRAFT

(5) The License agreement shall be in the general form as developed by the Town.

(6) Each License agreement is subject to approval by the Town Board.

(7) By issuance of a License, the Town does not represent or warrant title or ownership of the ROW. The Applicant proceeds at its own risk.

(8) Indemnification. Any License agreement shall contain indemnification provisions, indemnifying the Town for the Licensee's use of the Town ROW and related activities, to the maximum extent permitted by law.

(9) Performance Bond/Surety. Any License agreement shall contain the requirements that the Licensee provide a performance bond or other appropriate surety, as approved by the Town Board in an amount equal to or greater than a written estimate from a New York Licensed Engineer with experience in SWF removal. The written estimate must include the cost to remove all equipment and other improvements, which includes without imitation all antennas, radios, batteries, generators, utilities, cabinets, mounts, brackets, hardware, cables, wires, conduits, structures, shelters, towers, poles, footings, and foundations, whether above ground or below ground, constructed or installed, in connection with the SWF. In establishing or adjusting the bond amount required under this condition, and in accordance with New York Code, the Town shall take into consideration information provided by the Licensee regarding the cost to remove the wireless facility.

(10) The License shall require compliance with this Section, as may be amended by the Town Board.

(11) Insurance. Without limiting the indemnification provision herein, and in addition to the performance bond/surety required herein, the License agreement shall contain a requirement that the Licensee procure, at the Licensee's expense, insurance in an amount sufficient as determined by the Town Board, with the Town named as an additional insured.

C. Rates and Fees.

In addition to the fees outlined in Section 50-52, the fees set forth in Chapter 30 apply for SWF to be located in the Town ROW.

Article XI. Solar Energy Facilities

§ 50-54. Purpose.

This article aims to promote the accommodation of solar energy systems and equipment and the provision for adequate sunlight and convenience of access necessary therefor and to balance the potential impact on neighbors when solar collectors may be installed near their property while preserving the rights of property owners to install solar energy systems without excess regulation. In particular, this legislation is intended to apply to freestanding, ground-mounted or roof-mounted

DRAFT

solar energy system installations based upon certain placement. This legislation is not intended to override agricultural exemptions that are currently in place.

§ 50-55. **Applicability.**

A. The requirements of this Section shall apply to all solar energy systems installed or modified after the effective date of this article, excluding general maintenance and repair.

B. Solar energy system installations for which a valid building permit has been issued or, if no building permit is presently required, for which installation has commenced before the effective date of this article shall not be required to meet the requirements herein.

C. All solar energy systems shall be designed, erected, and installed in accordance with all applicable Codes, regulations and industry standards as referenced in the New York State Uniform Fire Prevention and Building Code and the Town Code.

D. Nothing contained in this article shall be construed to prohibit "collective solar" installations or the sale of excess power through a net billing or net metering arrangement in accordance with New York State Public Service Law § 66-j or similar New York State or federal law or regulation.

E. All solar energy systems shall be designed, erected, and installed so as to prevent undue glint and glare from falling on adjoining properties or creating traffic safety issues.

§ 50-56. **Solar collectors and installations for minor systems.**

A. Roof-mounted systems are permitted as accessory uses in all zoning districts, subject to the following requirements:

(1) The distance between the roof and highest edge of the system shall be in accordance with the New York State Uniform Fire Prevention and Building Code.

(2) Rooftop and building-mounted solar collectors shall not obstruct solar access to adjacent properties.

(3) A building permit shall be required for installation of all roof- and building-mounted solar collectors.

B. Ground-mounted and freestanding solar collectors.

(1) Ground-mounted and freestanding solar collectors are permitted as accessory structures in all business and industrial districts, subject to the following requirements:

(a) The location of the solar collectors meets all applicable setback requirements of the zone in which they are located.

DRAFT

(b) The height of the solar collectors and any mounts shall not exceed the height restrictions of the zone when oriented at maximum tilt.

(c) The solar collectors are located in a side or rear yard. If the side or rear yard is visible from adjacent properties and roads, there shall be a landscape buffer installed.

(d) Ground-mounted and freestanding solar collectors shall not obstruct solar access to adjacent properties.

(e) A building permit shall be required for installation of all ground-mounted and freestanding solar collectors.

(2) Ground-mounted and freestanding solar collectors are not permitted in residential districts.

C. Building-integrated photovoltaic systems, as defined by this article, are not considered an accessory use and are not subject to the requirements of this article, but are subject to all other applicable building, electrical, and safety Codes.

D. All solar collector installations must be performed in accordance with applicable electrical and building Codes, the manufacturer's installation instructions, and industry standards, and prior to operation, the electrical connections must be inspected by the Code Enforcement Officer or by an appropriate electrical inspection person or agency, as determined by the Town. In addition, any connection to the public utility grid must be inspected by the appropriate public utility.

E. When solar storage batteries are included as part of the solar collector system, they must be placed in a secure container or enclosure meeting the requirements of the New York State Uniform Fire Prevention and Building Code when in use and when no longer used shall be disposed of in accordance with the laws and regulations of Erie County and other applicable laws and regulations.

§ 50-57. **Major solar systems.**

A. Major solar systems are permitted through the issuance of a special use permit and site plan review in accordance with this article in the Light Industrial (LI) and General Industrial Districts. The minimum lot size required is one acre in the Light Industrial (LI) District and one acre in the General Industrial (GI) District. In addition, major solar systems must meet the criteria set forth below.

B. A major solar system may be permitted in the Light Industrial (LI) and General Industrial (GI) Districts when authorized by site plan review and a special use permit from the Town Board, subject to the following terms and conditions.

(1) The total coverage on a lot, including freestanding solar panels, shall not exceed 80%.

DRAFT

(2) Height and setback restrictions.

(a) The maximum height for freestanding solar panels located on the ground or attached to a framework located on the ground shall not exceed 20 feet in height above the ground.

(b) The minimum setback from property lines shall be 25 feet, unless adjacent to residential property.

(c) A landscaped buffer of trees, shrubs or bushes shall be provided around all equipment and solar collectors to provide screening from adjacent residential properties and roads.

(3) Design standards.

(a) Removal of trees and other existing vegetation should be minimized and/or offset with planting elsewhere on the property.

(b) Removal of any prime agricultural soil from the subject parcel is prohibited.

(c) Proposed major solar systems shall not negatively impact the viability of prime agricultural soils onsite.

(d) Roadways within the site shall not be constructed of impervious materials and shall be designed to minimize the extent of roadways constructed and soil compaction.

(e) All on-site utility and transmission lines shall, to the extent feasible, be placed underground.

(f) Solar collectors and other facilities shall be designed and located in order to minimize reflective glare and/or glint toward any inhabited buildings on adjacent properties and roads.

(g) All mechanical equipment, including any structure for batteries or storage cells, shall be enclosed by a minimum six-foot-high fence with a self-locking gate and provided with landscape screening.

(h) Major systems or solar farms shall not obstruct solar access to adjacent properties.

(4) Signs.

(a) A sign not to exceed eight square feet shall be displayed on or near the main access point and shall list the facility name, owner and phone number.

DRAFT

(b) A clearly visible warning sign concerning voltage must be placed at the base of all pad-mounted transformers and substations, not to exceed four square feet.

C. A piece of equipment which meets the definition of oil-filled operational equipment set forth in 40 CFR 112.2 (e.g., transformers, capacitors and electrical switches) shall comply with the secondary containment procedures of that regulation.

§ 50-58. Special use permit requirements.

A. In addition to the other special use permit requirements of this Chapter, the following shall be provided to the Town:

(1) Verification of utility notification. Any foreseeable infrastructure upgrades shall be documented and submitted. Off-grid systems are exempt from this requirement.

(2) Name, address, and contact information of the applicant, property owner(s), and agent submitting the project.

(3) If the property of the proposed project is to be leased, legal consent between all parties specifying the use(s) of the land for the duration of the project, including easements and other agreements, shall be submitted.

(4) Site plan. Site plan approval is required.

(5) Blueprints signed by a professional engineer or registered architect of the solar installation showing the layout of the system.

(6) Property operation and maintenance plan. A property operation and maintenance plan is required, describing continuing photovoltaic maintenance and property upkeep, such as mowing, trimming, etc.

(7) Decommissioning plan. To ensure the proper removal of large-scale solar energy systems, a decommissioning plan shall be submitted as part of the application. Compliance with this plan shall be made a condition of the issuance of a special use permit under this Section. The decommissioning plan must specify that after the large-scale solar energy system can no longer be used, it shall be removed by the applicant or any subsequent owner. The plan shall demonstrate how the removal of all infrastructure and the remediation of soil and vegetation shall be conducted to return the parcel to its original state prior to construction. The plan shall also include an expected timeline for execution. A cost estimate detailing the projected cost of executing the decommissioning plan shall be prepared by a professional engineer or contractor. Cost estimations shall take into account inflation. Removal of large- scale solar energy systems must be completed in accordance with the decommissioning plan. If the large- scale solar energy system is not decommissioned after being considered abandoned, the municipality

DRAFT

may remove the system and restore the property and impose a lien on the property to cover these costs to the municipality.

Article XII. Battery Energy Storage Systems

§ 50-59. Authority

This Battery Energy Storage System Law is adopted pursuant to Article IX of the New York State Constitution, §2(c)(6) and (10), New York Statute of Local Governments, § 10 (1) and (7); and sections 261-263 of the Town Law and section 10 of the Municipal Home Rule Law of the State of New York, which authorize the Town to adopt zoning provisions that advance and protect the health, safety and welfare of the community.

§ 50-60. Statement of Purpose

This Section is adopted to advance and protect the public health, safety, welfare, and quality of life of the Town by creating regulations for the installation and use of battery energy storage systems, with the following objectives:

A. To provide a regulatory scheme for the designation of properties suitable for the location, construction and operation of battery energy storage systems;

B. To ensure compatible land uses in the vicinity of the areas affected by battery energy storage systems;

C. To mitigate the impacts of battery energy storage systems on environmental resources such as important agricultural lands, forests, wildlife and other protected resources; and

D. To create synergy between battery energy storage system development and the goals of the Comprehensive Master Plan and its addenda, including but not limited to sustainable development goals and exploring opportunities for the utilization of solar and other alternative energy fixtures and facilities.

§ 50-61. Definitions

The terms used in this Article shall have the meanings indicated in Article III, Definitions.

§ 50-62. Applicability

A. The requirements of this Local Law shall apply to all battery energy storage systems permitted, installed, or modified in the Town after the effective date of this Local Law, excluding general maintenance and repair.

B. Battery energy storage systems constructed or installed prior to the effective date of this Local Law shall not be required to meet the requirements of this Local Law.

DRAFT

C. Modifications to, retrofits or replacements of an existing battery energy storage system that increase the total battery energy storage system designed discharge duration or power rating shall be subject to this Local Law.

§ 50-63. General Requirements

A. A building permit and an electrical permit shall be required for installation of all battery energy storage systems.

B. Issuance of permits and approvals by the Town Board shall include review pursuant to SEQRA.

C. All battery energy storage systems, all Dedicated Use Buildings, and all other buildings or structures that (1) contain or are otherwise associated with a battery energy storage system and (2) subject to the Uniform Code and/or the Energy Code shall be designed, erected, and installed in accordance with all applicable provisions of the Uniform Code, all applicable provisions of the Energy Code, and all applicable provisions of the Codes, regulations, and industry standards as referenced in the Uniform Code, the Energy Code, and the Town Code.

§ 50-64. Permitting Requirements for Tier 1 Battery Energy Storage Systems

Tier 1 Battery Energy Storage Systems shall be permitted in all zoning districts, subject to the Uniform Code and the "Battery Energy Storage System Permit," and exempt from site plan review.

§ 50-65. Permitting Requirements for Tier 2 Battery Energy Storage Systems

Tier 2 Battery Energy Storage Systems are permitted through the issuance of a special use permit within the A-R, MFMU, LC, GC, LI, and GI zoning districts, and shall be subject to the Uniform Code and the site plan application requirements set forth in this Section.

A. Applications for the installation of Tier 2 Battery Energy Storage System shall be:

(1) Reviewed by the Code Enforcement Officer for completeness. An application shall be complete when it addresses all matters listed in this Section including, but not necessarily limited to, (i) compliance with all applicable provisions of the Uniform Code and all applicable provisions of the Energy Code and (ii) matters relating to the proposed battery energy storage system and Floodplain, Utility Lines and Electrical Circuitry, Signage, Lighting, Vegetation and Tree-cutting, Noise, Decommissioning, Site Plan and Development, Special Use and Development, Ownership Changes, Safety, and Permit Time Frame and Abandonment. Applicants shall be advised within 10 business days of the completeness of their application or any deficiencies that must be addressed prior to substantive review.

DRAFT

(2) Subject to a public hearing to hear all comments for and against the application. The Town Board shall have a notice printed in a newspaper of general circulation in the Town at least 5 days in advance of such hearing. Applicants shall have delivered the notice by first class mail to adjoining landowners or landowners within 200 feet of the property at least 10 days prior to such a hearing. Proof of mailing shall be provided to the Town Board at the public hearing.

(3) Referred to the Erie County Department of Environment and Planning pursuant to General Municipal Law § 239-m if required.

(4) Upon closing of the public hearing, the Town Board shall take action on the application within 62 days of the public hearing, which can include approval, approval with conditions, or denial. The 62-day period may be extended upon consent by both the Town Board and Applicant.

B. Utility Lines and Electrical Circuitry. All on-site utility lines shall be placed underground to the extent feasible and as permitted by the serving utility, with the exception of the main service connection at the utility company right-of-way and any new interconnection equipment, including without limitation any poles, with new easements and right-of-way.

C. Signage.

(1) The signage shall be in compliance with ANSI Z535 and shall include the type of technology associated with the battery energy storage systems, any special hazards associated, the type of suppression system installed in the area of battery energy storage systems, and 24-hour emergency contact information, including reach-back phone number.

(2) As required by the NEC, disconnect and other emergency shutoff information shall be clearly displayed on a light reflective surface. A clearly visible warning sign concerning voltage shall be placed at the base of all pad-mounted transformers and substations.

D. Lighting. Lighting of the battery energy storage systems shall be limited to that minimally required for safety and operational purposes and shall be reasonably shielded and downcast from abutting properties.

E. Vegetation and tree-cutting. Areas within 10 feet on each side of Tier 2 Battery Energy Storage Systems shall be cleared of combustible vegetation and other combustible growth. Single specimens of trees, shrubbery, or cultivated ground cover such as green grass, ivy, succulents, or similar plants used as ground covers shall be permitted to be exempt provided that they do not form a means of readily transmitting fire. Removal of trees should be minimized to the extent possible.

F. Noise. The 1-hour average noise generated from the battery energy storage systems, components, and associated ancillary equipment shall not exceed a noise level of 60 dBA as measured at the outside wall of any non-participating residence or occupied community

DRAFT

building. Applicants may submit equipment and component manufacturers' noise ratings to demonstrate compliance. The applicant may be required to provide Operating Sound Pressure Level measurements from a reasonable number of sampled locations at the perimeter of the battery energy storage system to demonstrate compliance with this standard.

G. Decommissioning.

(1) Decommissioning Plan. The applicant shall submit a decommissioning plan, developed in accordance with the Uniform Code, to be implemented upon abandonment and/or in conjunction with removal from the facility. The decommissioning plan shall include:

(a) A narrative description of the activities to be accomplished, including who will perform that activity and at what point in time, for complete physical removal of all battery energy storage system components, structures, equipment, security barriers, and transmission lines from the site;

(b) Disposal of all solid and hazardous waste in accordance with local, state, and federal waste disposal regulations;

(c) The anticipated life of the battery energy storage system;

(d) The estimated decommissioning costs and how said estimate was determined;

(e) The method of ensuring that funds will be available for decommissioning and restoration;

(f) The method by which the decommissioning cost will be kept current;

(g) The manner in which the site will be restored, including a description of how any changes to the surrounding areas and other systems adjacent to the battery energy storage system, such as, but not limited to, structural elements, building penetrations, means of egress, and required fire detection suppression systems, will be protected during decommissioning and confirmed as being acceptable after the system is removed; and

(h) A listing of any contingencies for removing an intact operational energy storage system from service, and for removing an energy storage system from service that has been damaged by a fire or other event.

(2) Decommissioning Fund. The owner and/or operator of the energy storage system, shall continuously maintain a fund or bond payable to the Town of Lancaster, in a form approved by the Town Board and Town Attorney for the removal of the battery energy storage system, in an amount to be determined by the Town Board, for the period of the life of the facility. This fund may consist of a letter of credit

DRAFT

from a State of New York licensed-financial institution. All costs of the financial security shall be borne by the applicant.

H. Site plan application. For a Tier 2 Battery Energy Storage System requiring a Special Use Permit, site plan approval shall be required. Any site plan application shall include the following information:

(1) Property lines and physical features, including roads, for the project site.

(2) Proposed changes to the landscape of the site, grading, vegetation clearing and planting, exterior lighting, and screening vegetation or structures.

(3) An electrical diagram detailing the battery energy storage system layout, associated components, and electrical interconnection methods, with all National Electrical Code compliant disconnects and over current devices.

(4) A preliminary equipment specification sheet that documents the proposed battery energy storage system components, inverters and associated electrical equipment that are to be installed. A final equipment specification sheet shall be submitted prior to the issuance of building permit.

(5) Name, address, and contact information of proposed or potential system installer and the owner and/or operator of the battery energy storage system. Such information of the final system installer shall be submitted prior to the issuance of building permit.

(6) Name, address, phone number, and signature of the project Applicant, as well as all the property owners, demonstrating their consent to the application and the use of the property for the battery energy storage system.

(7) Zoning district designation for the parcel(s) of land comprising the project site.

(8) Commissioning Plan. Such plan shall document and verify that the system and its associated controls and safety systems are in proper working condition per requirements set forth in the Uniform Code. Where commissioning is required by the Uniform Code, Battery energy storage system commissioning shall be conducted by a New York State (NYS) Licensed Professional Engineer after the installation is complete but prior to final inspection and approval. A corrective action plan shall be developed for any open or continuing issues that are allowed to be continued after commissioning. A report describing the results of the system commissioning and including the results of the initial acceptance testing required in the Uniform Code shall be provided to the Code Enforcement Officer prior to final inspection and approval and maintained at an approved on-site location.

(9) Fire Safety Compliance Plan. Such plan shall document and verify that the system and its associated controls and safety systems are in compliance with the Uniform Code.

DRAFT

(10) Operation and Maintenance Manual. Such plan shall describe continuing battery energy storage system maintenance and property upkeep, as well as design, construction, installation, testing and commissioning information and shall meet all requirements set forth in the Uniform Code.

(11) Erosion and sediment control and storm water management plans prepared to New York State Department of Environmental Conservation standards, if applicable, and to such standards as may be established by the Planning Board.

(12) Prior to the issuance of the building permit or final approval by the Town Board, but not required as part of the application, engineering documents must be signed and sealed by a NYS Licensed Professional Engineer.

(13) Emergency Operations Plan. A copy of the approved Emergency Operations Plan shall be given to the system owner, the local fire department, and local fire Code official. A permanent copy shall also be placed in an approved location to be accessible to facility personnel, fire Code officials, and emergency responders. The emergency operations plan shall include the following information:

(a) Procedures for safe shutdown, de-energizing, or isolation of equipment and systems under emergency conditions to reduce the risk of fire, electric shock, and personal injuries, and for safe start-up following cessation of emergency conditions.

(b) Procedures for inspection and testing of associated alarms, interlocks, and controls.

(c) Procedures to be followed in response to notifications from the Battery Energy Storage Management System, when provided, that could signify potentially dangerous conditions, including shutting down equipment, summoning service and repair personnel, and providing agreed upon notification to fire department personnel for potentially hazardous conditions in the event of a system failure.

(d) Emergency procedures to be followed in case of fire, explosion, release of liquids or vapors, damage to critical moving parts, or other potentially dangerous conditions. Procedures can include sounding the alarm, notifying the fire department, evacuating personnel, de-energizing equipment, and controlling and extinguishing the fire.

(e) Response considerations similar to a safety data sheet (SDS) that will address response safety concerns and extinguishment when an SDS is not required.

(f) Procedures for dealing with battery energy storage system equipment damaged in a fire or other emergency event, including maintaining contact information for personnel qualified to safely remove damaged battery energy storage system equipment from the facility.

DRAFT

(g) Other procedures as determined necessary by the Town to provide for the safety of occupants, neighboring properties, and emergency responders.

(h) Procedures and schedules for conducting drills of these procedures and for training local first responders on the contents of the plan and appropriate response procedures.

I. Special Use Permit Standards.

(1) Setbacks. Tier 2 Battery Energy Storage Systems shall comply with the setback requirements of the underlying zoning district for principal structures.

(2) Height. Tier 2 Battery Energy Storage Systems shall comply with the building height limitations for principal structures of the underlying zoning district.

(3) Fencing Requirements. Tier 2 Battery Energy Storage Systems, including all mechanical equipment, shall be enclosed by a 7-foot-high fence with a self-locking gate to prevent unauthorized access unless housed in a dedicated-use building and not interfering with ventilation or exhaust ports.

(4) Screening and Visibility. Tier 2 Battery Energy Storage Systems shall have views minimized from adjacent properties to the extent reasonably practicable using architectural features, earth berms, landscaping, or other screening methods that will harmonize with the character of the property and surrounding area and not interfering with ventilation or exhaust ports.

J. Ownership Changes. If the owner of the battery energy storage system changes or the owner of the property changes, the special use permit shall remain in effect, provided that the successor owner or operator assumes in writing all of the obligations of the special use permit, site plan approval, and decommissioning plan. A new owner or operator of the battery energy storage system shall notify the Code Enforcement Officer of such change in ownership or operator within 30 days of the ownership change. A new owner or operator must provide such notification to the Code Enforcement Officer in writing. The special use permit and all other local approvals for the battery energy storage system are void if a new owner or operator fails to provide written notification to the Code Enforcement Officer in the required timeframe. Reinstatement of a void special use permit will be subject to the same review and approval processes for new applications under this Local Law.

§ 50-66. **Safety**

A. System Certification. Battery energy storage systems and equipment shall be listed by a Nationally Recognized Testing Laboratory to UL 9540 (Standard for battery energy storage systems and Equipment) with subcomponents meeting each of the following standards as applicable:

(1) UL 1973 (Standard for Batteries for Use in Stationary, Vehicle Auxiliary Power, and Light Electric Rail Applications),

DRAFT

(2) UL 1642 (Standard for Lithium Batteries),

(3) UL 1741 or UL 62109 (Inverters and Power Converters),

(4) Certified under the applicable electrical, building, and fire prevention Codes as required.

(5) Alternatively, field evaluation by an approved testing laboratory for compliance with UL 9540 and applicable Codes, regulations and safety standards may be used to meet system certification requirements.

B. Site Access. Battery energy storage systems shall be maintained in good working order and in accordance with industry standards. Site access shall be maintained, including snow removal at a level acceptable to the local fire department and, if the Tier 2 Battery Energy Storage System is located in an ambulance district, the local ambulance corps.

C. Battery energy storage systems, components, and associated ancillary equipment shall have required working space clearances, and electrical circuitry shall be within weatherproof enclosures marked with the environmental rating suitable for the type of exposure in compliance with NFPA 70.

§ 50-67. Permit Time Frame and Abandonment

A. The Special Use Permit and site plan approval for a battery energy storage system shall be valid for a period of 24 months, provided that a building permit is issued for construction and construction is commenced within that time. In the event construction is not completed in accordance with the final site plan, as may have been amended and approved, as required by the Town Board, within 24 months after approval, the Town Board may extend the time to complete construction for 180 days. If the owner and/or operator fails to perform substantial construction after 36 months, the approvals shall expire.

B. The battery energy storage system shall be considered abandoned when it ceases to operate consistently for 12 months. If the owner and/or operator fails to comply with decommissioning upon any abandonment, the Town may, at its discretion, enter the property and utilize the available bond and/or security for the removal of a Tier 2 Battery Energy Storage System and restoration of the site in accordance with the decommissioning plan.

§ 50-68. Enforcement

Any violation of this Battery Energy Storage System Law shall be subject to the same enforcement requirements contained in this Chapter.

§ 50-69. Severability

The invalidity or unenforceability of any section, subsection, paragraph, sentence, clause, provision, or phrase of the aforementioned sections, as declared by the valid judgment of any

DRAFT

court of competent jurisdiction to be unconstitutional, shall not affect the validity or enforceability of any other section, subsection, paragraph, sentence, clause, provision, or phrase, which shall remain in full force and effect.

Article XIII. Stormwater Control

§ 50-70. Definitions.

The terms used in this Article and Chapter 42, Stormwater Management and Erosion and Sediment Control, or in documents prepared or reviewed under this article and Chapter 42 shall have the meanings indicated in Article III, Definitions.

§ 50-71. Storm water pollution prevention plans.

A. Storm water pollution prevention plan requirement. No application for approval of a land development activity shall be reviewed until the appropriate board has received a storm water pollution prevention plan (SWPPP) prepared in accordance with the specifications in this article and Chapter 42, Stormwater Management and Erosion and Sediment Control.

B. Contents of storm water pollution prevention plans.

(1) All SWPPPs shall provide the following background information and erosion and sediment controls:

(a) Background information about the scope of the project, including location, type and size of project.

(b) Site map/construction drawing(s) for the project, including a general location map. At a minimum, the site map should show the total site area; all improvements; areas of disturbance; areas that will not be disturbed; existing vegetation; on-site and adjacent off-site surface water(s); wetlands and drainage patterns that could be affected by the construction activity; existing and final slopes; locations of off-site material, waste, borrow or equipment storage areas; and location(s) of the storm water discharges(s);

(c) Description of the soil(s) present at the site;

(d) Construction phasing plan describing the intended sequence of construction activities, including clearing and grubbing, excavation and grading, utility and infrastructure installation and any other activity at the site that results in soil disturbance. Consistent with the New York Standards and Specifications for Erosion and Sediment Control (Erosion Control Manual), not more than five acres shall be disturbed at any one time unless pursuant to an approved SWPPP.

DRAFT

(e) Description of the pollution prevention measures that will be used to control litter, construction chemicals and construction debris from becoming a pollutant source in storm water runoff;

(f) Description of construction and waste materials expected to be stored on site with updates as appropriate, and a description of controls to reduce pollutants from these materials including storage practices to minimize exposure of the materials to storm water, and spill prevention and response;

(g) Temporary and permanent structural and vegetative measures to be used for soil stabilization, runoff control and sediment control for each stage of the project, from initial land clearing and grubbing to project closeout;

(h) A site map/construction drawing(s) specifying the location(s), size(s) and length(s) of each erosion and sediment control practice;

(i) Dimensions, material specifications and installation details for all erosion and sediment control practices, including the siting and sizing of any temporary sediment basins;

(j) Temporary practices that will be converted to permanent control measures;

(k) Implementation schedule for staging temporary erosion and sediment control practices, including the timing of initial placement and duration that each practice should remain in place;

(l) Maintenance schedule to ensure continuous and effective operation of the erosion and sediment control practice;

(m) Name(s) of the receiving water(s);

(n) Delineation of SWPPP implementation responsibilities for each part of the site;

(o) Description of structural practices designed to divert flows from exposed soils, store flows, or otherwise limit runoff and the discharge of pollutants from exposed areas of the site to the degree attainable; and

(p) Any existing data that describes the storm water runoff at the site.

(2) Land development activities as defined in Article III and meeting Condition A, B or C below shall also include water quantity and water quality controls (post-construction storm water runoff controls) as set forth in subsection B(3) below as applicable:

(a) Condition A: storm water runoff from land development activities discharging a pollutant of concern to either an impaired water identified on the NYSDEC's 303(d) list of impaired waters or a total maximum daily load

(TMDL) designated watershed for which pollutants in storm water have been identified as a source of the impairment.

(b) Condition B: storm water runoff from land development activities disturbing five or more acres.

(c) Condition C: storm water runoff from land development activity disturbing between one and five acres of land during the course of the project, exclusive of the construction of single-family residences and construction activities at agricultural properties.

(3) SWPPP requirements for Conditions A, B and C:

(a) All information in subsection B(1) of this Section;

(b) Description of each post-construction storm water management practice;

(c) Site map/construction drawing(s) showing the specific location(s) and size(s) of each post-construction storm water management practice;

(d) Hydrologic and hydraulic analysis for all structural components of the storm water management system for the applicable design storms;

(e) Comparison of post-development storm water runoff conditions with predevelopment conditions;

(f) Dimensions, material specifications and installation details for each post-construction storm water management practice;

(g) Maintenance schedule to ensure continuous and effective operation of each post-construction storm water management practice;

(h) Maintenance easements to ensure access to all storm water management practices at the site for the purpose of inspection and repair. Easements shall be recorded on the plan and shall remain in effect with transfer of title to the property;

(i) Inspection and maintenance agreement binding on all subsequent landowners served by the on-site storm water management measures in accordance with § 50-71 of this article.

C. Plan certification. The SWPPP shall be prepared by a landscape architect, certified professional or professional engineer and must be signed by the professional preparing the plan, who shall certify that the design of all storm water management practices meets the requirements in this article and Chapter 42, Stormwater Management and Erosion and Sediment Control.

DRAFT

D. Other environmental permits. The applicant shall assure that all other applicable environmental permits have been or will be acquired for the land development activity prior to approval of the final storm water design plan.

E. Contractor certification.

(1) Each contractor and subcontractor identified in the SWPPP who will be involved in soil disturbance and/or storm water management practice installation shall sign and date a copy of the following certification statement before undertaking any land development activity: "I certify under penalty of law that I understand and agree to comply with the terms and conditions of the storm water pollution prevention plan. I also understand that it is unlawful for any person to cause or contribute to a violation of water quality standards."

(2) The certification must include the name and title of the person providing the signature, address and telephone number of the contracting firm; the address (or other identifying description) of the site; and the date the certification is made.

(3) The certification statement(s) shall become part of the SWPPP for the land development activity.

F. A copy of the SWPPP shall be retained at the site of the land development activity during construction from the date of initiation of construction activities to the date of final stabilization.

§ 50-72. **Performance and design criteria.**

All land development activities shall be subject to the following performance and design criteria:

A. Technical standards. For the purpose of this article and Chapter 42, Stormwater Management and Erosion and Sediment Control, the following documents shall serve as the official guides and specifications for storm water management. Stormwater management practices that are designed and constructed in accordance with these technical documents shall be presumed to meet the standards imposed by this article and Chapter 42:

(1) The New York State Stormwater Management Design Manual (New York State Department of Environmental Conservation, most current version or its successor, hereafter referred to as the "Design Manual"); the post-development stormwater runoff from a 24-hour, 100-year storm event must be equal to or less than the pre-development stormwater runoff from a 24-hour, 10-year storm event.

(2) New York Standards and Specifications for Erosion and Sediment Control, (Empire State Chapter of the Soil and Water Conservation Society, 2004, most current version or its successor, hereafter referred to as the "Erosion Control Manual").

DRAFT

B. Water quality standards. Any land development activity shall not cause an increase in turbidity that will result in substantial visible contrast to natural conditions in surface waters of the State of New York.

§ 50-73. Maintenance and repair of storm water facilities.

A. Maintenance during construction.

(1) The applicant or developer of the land development activity shall at all times properly operate and maintain all facilities and systems of treatment and control (and related appurtenances) which are installed or used by the applicant or developer to achieve compliance with the conditions of this article and Chapter 42, Stormwater Management and Erosion and Sediment Control. Sediment shall be removed from sediment traps or sediment ponds whenever their design capacity has been reduced by 50%.

(2) The applicant or developer or their representative shall be on site at all times when construction or grading activity takes place and shall inspect and document the effectiveness of all erosion and sediment control practices. Inspection reports shall be completed every seven days and within 24 hours of any storm event producing 0.5 inch of precipitation or more. The reports shall be delivered to the Stormwater Management Officer and also copied to the site logbook.

B. Maintenance easement(s). Prior to the issuance of any approval that has a storm water management facility as one of the requirements, the applicant or developer must execute a maintenance easement agreement that shall be binding on all subsequent landowners served by the storm water management facility. The easement shall provide for access to the facility at reasonable times for periodic inspection by the Town of Lancaster to ensure that the facility is maintained in proper working condition to meet design standards and any other provisions established by this article and Chapter 42, Stormwater Management and Erosion and Sediment Control. The easement shall be recorded by the grantor in the office of the County Clerk after approval by the counsel for the Town of Lancaster.

C. Maintenance after construction. The owner and/or operator of permanent storm water management facilities/practices installed in accordance with this Chapter shall ensure they are operated and maintained to achieve the goals of this Chapter. Proper operation and maintenance also includes, as a minimum, the following:

(1) A preventive/corrective maintenance program for all critical facilities and systems of treatment and control (or related appurtenances) which are installed or used by the owner and/or operator to achieve the goals of this article and Chapter 42, Stormwater Management and Erosion and Sediment Control.

(2) Written procedures for operation and maintenance and training of new maintenance personnel.

DRAFT

(3) Discharges from the SMPs shall not exceed design criteria or cause or contribute to water quality standard violations in accordance with § 50-74(C)(3).

D. Maintenance agreements. The Town of Lancaster shall approve a formal maintenance agreement for the storm water management facilities which shall be binding on all subsequent real property landowners and shall be recorded in the Office of the County Clerk as a deed restriction on the property. Proof of said filing shall be provided to the Town prior to the issuance of public improvement permits.

Article XIV. Administration and Enforcement

§ 50-74. Amendment procedure.

A. Initiation of zoning amendments: general provisions.

(1) The regulations, restrictions and boundaries herein provided may from time to time be amended, supplemented, changed or modified or repealed as provided by law. The provisions hereinafter contained shall apply to amendments, supplements, changes or modifications to district boundaries or classifications thereof. If any area is transferred from one district to another district, any nonconforming use thereby created may be continued to the extent permitted pursuant to the provisions of this ordinance regulating nonconforming uses generally.

(2) Such proposed amendments, supplements, changes or modifications, whether initiated by the Town Board, Planning Board or by petition shall be referred to the Planning Board for review and recommendation.

(3) When a petition is withdrawn within 10 days prior to the scheduled public hearing, or is withdrawn or denied after the hearing, a petition seeking substantially the same relief shall not be considered or voted on by the Town Board within one year from the date of such previous filing, except for a vote to table or to receive and refer the petition to the Planning Board. If the Planning Board shall receive a referral of such a petition and find that there have been substantial changes which would merit a hearing or rehearing, the Planning Board shall indicate such changes in its recommendation to the Town Board. This restriction shall not apply where the Town Board has not issued a final determination on a petition within 60 days following the public hearing on that petition.

B. Application for rezoning. The petition shall contain the information described in subsections (1) and (2) below and shall be notarized before a person authorized by law to administer oaths. The number of copies shall be determined by the Building Inspector who shall approve the form of the petition before it is accepted for filing by the Town Clerk.

(1) Documents.

DRAFT

(a) Name, address and telephone number of the applicant and, if he is not the owner, his interest in the property.

(b) Name, address and telephone number of the owner(s) of the property proposed for rezoning.

(c) A legal description and existing street address of the total site proposed for rezoning.

(d) A survey of the total site, prepared by a licensed surveyor and an aerial photo map of the site to include an area within 3,000 feet of the proposed boundaries of the site being considered for rezone.

(e) Identification of existing and proposed zoning.

(f) A statement of planning objectives to be achieved by the rezoning. This statement should include a description of the character of the proposed development, the rationale behind the assumptions and choices made by the applicant, and a statement of how the development meets the objectives of the Comprehensive Plan.

(g) A general statement as to how open space is to be owned and maintained, if relevant.

(h) A development schedule indicating the approximate date when construction can be expected to begin and be completed and any stages thereof.

(i) A statement of the applicant's intentions with regard to the future selling or leasing of all or portions of the proposed development.

(j) Quantitative data for the following:

[1] Total number and type of dwelling units indicating distribution by dwelling unit type.

[2] Calculation of the residential density and dwelling units per gross acre for the entire development.

[3] Total amount of open space.

[4] Proposed nonresidential floor area.

(k) A development plan, if required by the Planning Board, in order to assure that the proposed zoning is consistent with the Comprehensive Plan and the intent and objectives of this ordinance.

DRAFT

(2) Development plan. The development plan must contain the following minimum information, unless waived by the Planning Board as not being applicable. Maps shall be drawn to scale.

(a) The existing site conditions including property lines, contours, watercourses, floodplains, unique natural features and tree cover.

(b) Proposed land use arrangement.

(c) The location of all existing and proposed structures and other improvements, including maximum heights, types of dwelling units and location of nonresidential floor area.

(d) The location and size, in acres or square feet of all use areas and areas to be conveyed, dedicated or reserved as common open spaces, public parks, recreational areas, school sites and similar public and semipublic uses.

(e) The existing and proposed circulation system of arterial, collector and local streets, including off-street parking, loading and stacking areas and major points of ingress and egress to the development. Notations of proposed ownership, public or private, should be included where appropriate.

(f) The existing and proposed pedestrian circulation system, including its inter-relationships with the vehicular circulation system.

(g) The existing utilities systems, including sanitary sewers, storm sewers, storm water retention areas and waterlines.

(h) Information including zoning, ownership and use of all lands within 500 feet of the perimeter of the area proposed to be rezoned.

(i) Sketches or other representations of typical structures and improvements sufficient to convey the basic architectural intent of the proposed improvements.

(j) Any additional information as might be required by the Planning Board to evaluate the character and impact of the proposed rezoning.

(3) Planning Board review.

(a) Upon receipt of a petition for rezoning, the Town Clerk shall transmit it to officials and agencies as he may deem appropriate for their review, report and recommendation. Such officials and agencies shall each, within 30 days from receiving the petition, furnish the Planning Board a report pertinent to their respective jurisdictions.

(b) The Planning Board shall review the petition and development plan and evaluate reports received from reviewing agencies and officials. Within 60

DRAFT

days following receipt by the Town Clerk and after holding a public meeting on the petition, the Planning Board shall furnish the Town Board and applicant either its findings that the proposed rezoning complies with the Comprehensive Plan and the regulations, standards, intent and objectives of this ordinance or a finding of any failure of such compliance and a recommendation that the rezoning be approved, disapproved or modified.

[1] Favorable report. A favorable report shall be based on the following findings which shall be included as a part of the report:

[a] The proposed zoning and development plan meets the intent and objectives of the Comprehensive Plan and this ordinance.

[b] Whether there are adequate services and utilities available or proposed to be made available in the construction of the development.

[2] Conditions. The Planning Board may include in a favorable report a recommendation that the Town Board establish conditions as a part of any resolution approving the application in order to protect the public health, safety, welfare and environmental quality of the community and to carry out the intent and objectives of the Comprehensive Plan and this ordinance.

[3] Unfavorable report. An unfavorable report shall state clearly the reasons therefor and, if appropriate, point out to the applicant what changes might be necessary in order to receive a favorable report.

(4) Town Board proceedings.

(a) Public hearing.

[1] Following completion of Planning Board review and upon receipt of the Planning Board's report, the Town Board shall:

[a] Refer back to the Planning Board for additional data, if necessary.

[b] Set a date for a public hearing for the purpose of considering the application and cause notice to be given as required by law.

[2] The Town Board shall hold the public hearing and render a decision within 60 days.

(b) Town Board action.

DRAFT

[1] If the Town Board approves the amendment, supplement, change or modification to district boundaries or classifications thereof, after publication as required by law, the Zoning Map shall be amended.

[2] The Town Board may, in order to protect the public health, safety, welfare and environmental quality of the community, attach to its resolution approving an application additional conditions or requirements consistent with the intent and objectives of the Comprehensive Plan and this ordinance. The notice of the adoption of the resolution shall not be published nor shall the Zoning Map be amended until the applicant has filed with the Town Clerk written consent to those conditions.

§ 50-75. **Site plan review.**

A. Intent. The intent of site plan review is to evaluate specified land uses in terms of their suitability to natural site conditions, their compatibility with surrounding land uses and their conformance with overall plans for the community, thus minimizing possible adverse effects on the health, safety and welfare of local residents.

B. Required site plan review. A site plan must be submitted to the Planning Board for all:

(1) Multiple-unit apartment complexes and condominium units. Residential developments for townhouse units and patio homes are subject to the subdivision regulations of the Town of Lancaster.

(2) New commercial, industrial, recreational, religious or institutional developments.

(3) Alterations or additions to existing commercial, industrial or public developments which increase original gross floor area by 750 square feet or more.

(4) Modifications to off-street parking, loading and stacking areas and structures.

(5) All development within any Overlay District established by this Chapter.

(6) Any change in use or intensity of use which the Code Enforcement Officer determines will significantly impact the characteristics of the site in terms of parking, loading, access, drainage, utilities, traffic, or other environmental impact for any commercial, industrial or multifamily use.

(7) Any use involving outside storage, or expansion of outdoor storage areas, or movement of outside storage areas.

(8) Any use involving construction or alteration of drive-in or drive-through business facilities.

(9) Any nonresidential use in a residential district.

DRAFT

(10) A site plan must be submitted for all applications to modify any previously approved site plan.

C. Site plan required information. The site plan shall include the following information, except where the Planning Board may choose to waive certain requirements set forth in this Section as deemed appropriate. The site plan shall be prepared by a licensed New York State professional engineer, architect or licensed land surveyor as appropriate (please note that the Town requires drawings to be in a CADD & GIS readable format):

(1) Application form, notes, and other required written information.

(2) Title of drawing, including name of development, name and address of applicant and person who prepared the drawing.

(3) Location plan, North point, professional stamp, scale (one inch equals 20 feet or other appropriate scale) and date.

(4) A boundary survey plotted to scale of the proposed development, including its acreage, a legal description thereof, existing topographic features including contours or spot elevations at a fifty-foot grid, large trees (six (6) inches or greater in diameter), buildings, structures, streets, property lines, utility easements, rights-of-way, sewers, water mains, fire hydrants, culverts and other significant man-made features, delineated wetlands and land uses, and an aerial photo map of the site to include an area within 3,000 feet of the proposed boundaries of the site being considered for site plan.

(5) Geotechnical evaluation demonstrating the suitability of the site for the project.

(6) The lines and names of existing and proposed streets and sidewalks immediately adjoining and within the proposed site.

(7) Layout, number and dimension of lots.

(8) Location, proposed use, height and floor plan of all nonresidential and all residential structures containing three or more dwelling units, location of all parking, loading and stacking areas with access drives.

(9) Location and proposed development of all open spaces, including parks, playgrounds and open reservations.

(10) Existing and proposed watercourses and direction of flow.

(11) Topographic map and drainage plan showing existing and finished grades, engineering calculations and the potential impacts to local surface waters.

(12) Water supply plan, including location of fire hydrants.

DRAFT

(13) Paving, including typical cross sections and profiles of proposed streets, pedestrian walkways, bikeways and parking lots.

(14) Sewage disposal plans, for information only.

(15) A landscape plan indicating location, type and size of existing trees and vegetation, identifying those to be preserved; and location, type and size of trees, vegetation and other amenities to be provided.

(16) Location and design of lighting facilities, fences, walls and signs.

(17) Location and dimension of all signs for which use permits are required under this ordinance.

(18) Proposed easements, restrictions, covenants and provisions for homeowner's associations and common ownerships.

(19) Plans for residential and nonresidential construction shall show front, side and back elevation. Drawings shall include the type of building material, color of building and color of roof. Plans should include an architectural rendering of the finished building.

(20) Site location map on USGS Quad Ranking Scale and/or a recent Town map.

(21) Storm water pollution prevention plan. A storm water pollution prevention plan consistent with the requirements of this Chapter and Chapter 42, Stormwater Management and Erosion and Sediment Control, shall be required for site plan approval. The SWPPP shall meet the performance and design criteria and standards in this Chapter. The approved site plan shall be consistent with the provisions of this Chapter and Chapter 42.

(22) Silt fencing shall be installed at the curb line at the time of excavation of a lot in a subdivision serviced by the Town of Lancaster storm sewer system. The Town of Lancaster Department of Code Enforcement may direct an additional silt fence to be installed on any building lot in the Town of Lancaster to prevent the siltation of materials into a retention, detention or drainage ditch or stream. All silt fencing shall be installed in accordance with the NYSDEC Storm water Design Manual.

(23) For development in any Overlay District, any other information required pursuant to § 50-24, § 50-25, § 50-26 and § 50-27, the applicable regulations set forth in this Chapter.

D. Site plan review procedure.

(1) All plans must be submitted 15 days prior to the Planning Board meeting

DRAFT

(2) The Building Inspector shall review the site plan application to ensure that it is complete and in conformance with this ordinance, the approved development plan, if one exists, and all other applicable laws. Thereafter he shall forward the plan to the Planning Board and other agencies for review as appropriate.

(3) Within 30 days of its receipt of the application, each agency shall review it and notify the Planning Board in writing of its comments or recommendations.

(4) Within 60 days of its receipt of the application for site plan approval and after holding an open meeting, the Planning Board shall issue its recommendations for action and notify the Building Inspector, Town Clerk and applicant of its recommendation. This time period may be extended by the written request of the applicant. In evaluating the application, the Planning Board may seek advice from the agencies it deems appropriate. The Planning Board's recommendation shall be issued in the form of a written report of approval or disapproval of the site plan. In a recommendation to approve l the site plan, the Planning Board may recommend conditions limiting the use and the occupancy of the land or proposed buildings consistent with the intent and purposes of this ordinance. If the Planning Board recommends disapproval, it shall state its reasons.

(5) SEQR shall be completed for all site plan projects, as required by law, with the Planning Board providing an advisory opinion to the Town Board, or other appropriate agency, as Lead Agency.

(6) Criteria. In considering the site plan for approval, the Planning Board shall evaluate, and the Town Board shall consider, the public health, safety, welfare, comfort and convenience of the public in general, the residents of the proposed development, and the residents of the immediate surrounding area. The Town Board may prescribe such appropriate conditions and safeguards as may be required in order that the results of its action shall, to the maximum extent possible, further the following:

(a) Compatibility. The character of proposed use is compatible with the surrounding neighborhood and the Town's Comprehensive Plan.

(b) Vehicular access. The number of proposed access points is not excessive, all access points are an adequate width, grade alignment and visibility, access points, proximity to intersections or places of public assembly, and similar safety considerations are reviewed for all site plan approvals.

(c) Lighting. Exterior lighting shall be planned, erected and maintained so the light is confined to the property and will not cast direct light or glare upon adjacent properties or public roads. The light source shall not be higher than 20 feet. High-intensity lighting shall not be permitted.

(d) Parking. Adequate off-street parking, queuing and loading spaces are provided to minimize the number of cars parked or standing on public roads.

DRAFT

(e) Pedestrian circulation. The interior circulation system is adequate to provide safe accessibility to all parking areas and ensure adequate separation of pedestrian and vehicular traffic.

(f) Landscaping and screening. All parking, storage, loading and service areas on properties adjacent to residential areas are reasonably screened and the general landscaping of the site reflects the character of the neighborhood and surrounding area.

(g) General screening requirements.

(h) Open storage areas, exposed machinery and outdoor areas used for the storage and collection of solid waste as permitted by this Chapter shall be visually screened from roads and surrounding land uses. Suitable types of screening include opaque and semi-opaque fences of a height necessary to screen the intended use. Where planted hedges are proposed, plant species, size and layout should be developed to provide an effective screen within three years of installation. Native or naturalized species of low maintenance trees and shrubs should be planted wherever possible.

(i) In locations where potential health or safety hazards may arise, such as solid waste storage/collection areas, a fence as otherwise permitted by this Chapter may be required to prevent unauthorized access to the premises. At all intersections and driveways, for a distance of 30 feet from the edge of the right-of-way (or the pavement where streets are private) screening shall be restricted to a maximum height of 2 ½ feet and trees shall be maintained to a clearance of seven feet above the ground to ensure sight lines remained unobstructed.

(j) Except as otherwise required herein, screening shall be no lower than six feet unless the Planning Board determines lower height is required for safety reasons.

(k) Natural features. The proposed use is compatible with geologic, hydraulic, and soil conditions of the site and adjacent areas and the existing natural scenic features are preserved to the greatest possible extent.

(l) Public facilities. The public facilities that service the proposed use, including water, sanitary sewer, drainage, roads and related facilities, parks and open space are adequate for the intended level of use.

(m) Avoidance of nuisance. The proposed use will not create noise, odor, dust or smoke as to create a nuisance or to be detrimental to adjoining properties.

(n) Stormwater management and drainage requirements. The proposed development shall:

DRAFT

[1] Not result in post-development discharge rates and volumes that exceed predevelopment discharge rates and volumes to adjoining properties.

[2] Surface water runoff shall be minimized and detained on site as long as possible and practical to facilitate ground water recharge. When available, municipal stormwater sewers may be employed to handle excess runoff.

[3] If stormwater cannot be channeled into municipal stormwater sewers, stormwater runoff shall be detained on-site. In no case shall increase runoff due to development activity be directed onto adjacent property. Techniques for delaying surface stormwater runoff shall be developed to prevent any increase in the runoff rate as a result of storms with a twenty-five-year or less recurrence frequency.

[4] The natural state of watercourses, swales or rights-of-way shall be maintained as much as possible. All drainage facilities shall be designed for a ten-year storm minimum. The Town Board may, on the Town Engineer's recommendation, require facilities sized for more intensive storms should development conditions in the vicinity of the site warrant a greater degree of protection.

(o) In no case shall plans be approved that would alter the course of a natural watercourse shown on the United States Geodetic Survey maps and the Official Town Map, or that would restrict or impede the free flow of water in these waterways, with piping or other structures, except by approval of the Town Board (which may require a public hearing) and, where applicable, a NYSDEC permit.

(p) If the site plan is approved, no topsoil removal, excavation, filling, grubbing, grading or stripping shall be commenced without a determination by the Town Engineer and Building Inspector that said activities will not create issues with erosion, sediment, dust control and drainage, including ponding of water.

(7) Standards for recommending site plan approval. The Planning Board shall recommend approval of the site plan if it finds that:

(a) The proposed site plan is consistent with the development plan if one is required.

(b) The proposed site plan is consistent with the intent, objectives and specific requirements of this ordinance.

(c) Adequate services and utilities will be available prior to occupancy.

DRAFT

(d) The site plan is consistent with all other applicable laws.

(e) When evaluating an application for development within an ERPOD, the Planning Board and Town Board shall consider:

[1] Protection of environmentally sensitive areas, as defined in this Section.

[2] Open space/natural resource management

[3] Protection of trees and wildlife habitat

[4] Opportunities for public access

[5] Creation of visual buffers and screens

(8) Town Board proceedings.

(a) Town Board action. Following completion of Planning Board review and upon receipt of the Planning Board's report regarding the site plan, the Town Board shall, within 60 days:

[1] Refer back to the Planning Board for additional data, if necessary; or

[2] Approve the site plan; or

[3] Approve the site plan with conditions limiting the use and the occupancy of the land or proposed buildings consistent with the intent and purposes of this Ordinance; or

[4] Deny the site plan application.

(9) Except for subdivisions that have been duly filed in the office of the County Clerk, if construction of the approved development has not commenced within two years from the time of site plan approval, that approval shall be deemed revoked. Extensions of this period may be granted by the Town Board.

E. Enforcement of site plan; security; penalty.

(1) Upon approval of a site plan, the owner/developer shall meet the conditions imposed by the Town Board, including but not limited to landscaping, buffer zones, fencing, finished exteriors, parking areas, dumpster location, etc., within 60 days of issuance of the certificate of occupancy by the Building Inspector, unless written extension is granted by the Town Board.

(2) A violation of the site plan is a violation of the Zoning Law and may be enforced as provided in this Chapter.

DRAFT

(3) The owner/developer shall be required to post a performance bond or cash security in a form acceptable to the Town Attorney and Town Board in a sum equivalent to the estimated cost of work to be completed at the time the Building Inspector issues a certificate of occupancy.

(4) The Building Inspector and Town Engineer shall calculate the estimated cost of completion. Failure to comply with the conditions within 60 days of posting the security or performance bond shall result in forfeiture of the bond or security.

(5) All drainage systems' as-built elevations for inverts, receiver rims and finished grade topography shall be submitted to the Town Engineer for review and acceptance prior to issuance of a certificate of occupancy/compliance. This shall apply for all commercial projects, residential subdivisions and any improvements conveyed to the Town of Lancaster.

(6) To assist future lot buildouts in residential subdivisions:

(a) Piped rear yard drainage systems, drain risers shall be marked with design finished grade.

(b) Non-piped rear yard drainage systems, grade stakes indicating finished grade shall be set and maintained until lot completion.

§ 50-76. **Administrative procedures.**

A. Administration and enforcement.

(1) General provisions. This ordinance shall be administered by the Code Enforcement Officer/Building Inspector, the Town Clerk and such agencies as the Town Board shall direct and shall be enforced by the Building Inspector. Those departments and agencies shall be provided with the assistance of such persons as the Town Board may direct.

(2) Enforcement. This ordinance shall be enforced by the Code Enforcement Officer/Building Inspector. The Code Enforcement Officer/Building Inspector or his staff may enter any premises or building at a reasonable time to determine whether it is in violation of this ordinance. He shall order discontinuance of uses of land, buildings or structures, or construction of buildings, structures or additions, alterations or other structural changes which are in violation of this ordinance or any other law. Nothing herein contained shall limit or restrict any other procedure provided for the enforcement of this ordinance or other applicable law.

B. Construction and use. Building permits authorize only the use, arrangement and construction which is in compliance with this ordinance and other applicable laws. Use, arrangement or construction not in compliance with this ordinance or other applicable laws shall be a violation of this ordinance.

DRAFT

C. Determination of similar uses.

(1) The Code Enforcement Officer/Building Inspector may, subject to Town Board review and approval, determine that a use not specifically listed in any districts established by this ordinance is a similar use to those enumerated in a specific district. In making a determination that a use is similar, the Code Enforcement Officer/Building Inspector shall first determine that:

(a) The use is not listed in any other classification of permitted buildings or uses;

(b) The use is appropriate and conforms to the basic characteristics of the classification to which it is to be added;

(c) The use does not create dangers to health and safety and does not create offensive noise, vibration, dust, heat, smoke, odor, glare or other objectionable influences to an extent greater than that resulting from other uses listed in the classification to which it is to be added; and

(d) Such a use does not create traffic to a greater extent than the other uses listed in the classification to which it is to be added.

(2) The determination, as approved by the Town Board, as to whether a use is similar to uses permitted by right shall be considered as an expansion of the use regulations of the district and not as a variance applying to a particular situation.

(3) Any use found "similar" shall thereafter be included in the enumeration of uses permitted by right.

D. Interpretations, orders, etc. The Building Inspector shall interpret this ordinance. Any interpretation or order, requirement decision or determination in connection with this ordinance shall be final except as otherwise provided by law, including any appeal to the Zoning Board of Appeals.

E. Records and reports. The Building Inspector shall keep, or cause to be kept, a record in his department suitably indexed in regard to any decision or determination reached by him in connection with the interpretation or enforcement of this ordinance.

§ 50-77. **Zoning Board of Appeals.**

A. Appointment and organization.

(1) Composition. The Board of Appeals shall consist of seven members appointed by the Town Board. The members of the Board of Appeals as now constituted shall continue in office until the expiration of their present terms. Thereafter, their successors shall be appointed for a term of five years each. Vacancies shall be filled as provided for in the Town Law.

DRAFT

(2) Clerk of the Board. The Town Clerk shall be the Clerk of the Board of Appeals and shall perform such duties as required by it. The Town Board may appoint additional clerks or other employees serving at its pleasure to assist the Board of Appeals. Minutes of all proceedings before the Board shall be taken and filed in the office of the Town Clerk and shall be a public record.

B. Powers and general procedure shall be as set forth in the New York Town Law.

C. A violation of any condition or time limit established by the Zoning Board of Appeals shall be a violation of the Zoning Law.

§ 50-78. **Special use permits.**

Any use requiring a special use permit requires compliance with this Section. Special use permits authorized by this Zoning Law shall only be issued by the Town Board after a public hearing advertised as required by Section 274-b of the New York Town Law.

A. Intent. Uses that require special use permit approval have a unique character that makes their establishment as a permitted or accessory use without prior review impracticable or undesirable. While designating uses as permitted with a special use permit is a legislative determination that such use is authorized, it is only so authorized provided the use complies with the criteria set forth herein as determined by the Town Board. This review shall be for the purpose of determining that each proposed use is, and will continue to be, compatible with surrounding existing and planned uses.

B. General guidelines. The applicant shall bear the burden of proof of demonstrating that the use meets the criteria set forth herein. It shall be the responsibility of the applicant for a special use permit to prove to the satisfaction of the Town that the items listed in this section and under the section of that particular special use are met. These uses are hereby declared to possess characteristics of such unique and special forms that each specific use shall be considered on an individual case.

C. Criteria. No special use permit shall be issued unless the Town Board finds the use complies with the following general requirements:

(1) The use is designed, located and proposed to be operated so the public health, safety, welfare and convenience will be protected.

(2) The use will not cause substantial injury to the value of other property in the neighborhood where it is located.

(3) The use will be compatible with adjoining development and the character of the neighborhood where it is located.

(4) Adequate landscaping and screening is provided to preserve the character of the neighborhood.

DRAFT

(5) Impacts, including but not limited to noise, traffic, drainage, lighting, dust, and debris are sufficiently mitigated by the application to warrant granting of a permit.

(6) Adequate off-street parking and loading are provided and the special use will not substantially interfere with traffic on abutting streets.

(7) Any other factor the Town Board rationally determines to be relevant to review of the application.

D. Application procedure.

(1) Concurrent review. Applications shall be submitted on the forms provided by the Town, and unless no site plan is required, shall be submitted simultaneously with the site plan application and contain all the information required by site plan review applications.

(2) Timing. Within 30 days after receipt of the application, the Town of Lancaster Planning Board shall review the application, site plan, and supporting data, and the Board shall recommend approval, approval with modifications or conditions, or disapproval of the special use permit. The Planning Board's action shall be in the form of a written recommendation of approval or disapproval of the application.

(3) The failure of the Planning Board to act within 30 days following the conclusion of such hearing, or such longer period as may be agreed to by the applicant, shall be deemed a recommendation for the approval of the development plan as submitted.

(4) Within 30 days following the receipt by the Town Board of the report of the Planning Board, or its failure to act as above provided, the Town Board shall conduct a public hearing. Within 60 days thereafter the Town Board shall render its decision on the special use permit application.

(5) In granting approval, the Town Board may impose conditions as necessary to mitigate impacts from the proposed use or to ensure the harmonious integration and compatibility of special permitted uses within neighborhoods and with surrounding areas, including a limitation on the life of the permit.

E. Expiration. Special use permits may expire. An applicant may apply for a new special use permit to replace the terminated permit. Such new permit is subject to the approval process in use at the time of application. Expiration of a special use permit occurs in the following circumstances:

(1) Abandonment of the special use permit occurs whenever the permit has not been actively used for its intended purpose for a period of one year.

(2) A special use permit expires without the permittee having timely applied for renewal.

DRAFT

(3) A special use permit shall be deemed to authorize only one special use and shall expire if the special permitted use fails to obtain a building permit within 6 months of the Town Board's approval.

(4) Where no structure is involved, the lot shall not have been put into use within 12 months after the date of issue of such permit, for the purpose of which such permit was granted.

(5) Construction and/or use of the structure for which such permit was granted shall not have actually begun within 12 months after the date of issue of such permit.

(6) The entire structure for which such permit was granted shall not have been completed according to filed plans within three years after the date of such permit.

F. Inspections, Violations, and Revocation.

(1) The Code Enforcement Officer has the authority to conduct inspections of specially permitted uses. A permittee's refusal of access for an inspection shall be a violation of the Zoning Law.

(2) A violation of the terms or conditions of a special use permit, or using the property in a manner not specifically permitted by the special use permit is a violation of the Zoning Law and is punishable as provided for in Section 50-80.

(3) Whenever it shall appear to the Town Board, based on investigation or complaint from the public or other office of the Town, that a permit holder is not complying with a condition of a special use permit, or if the permit holder denies access for an inspection, the Town Board may, after holding a public hearing at which the permit holder is given an opportunity to be heard, order the revocation of the special use permit either immediately, or after a cure period, if the permit holder fails to cure the violation. Upon revocation of the permit, the use shall immediately cease and desist until a new special use permit is issued by the Town Board. This shall be in addition to, and not in lieu of, any other enforcement efforts as provided for by applicable law.

§ 50-79. **Fees.**

See Chapter 30 of the Town Code.

§ 50-80. **Penalties for offenses.**

A. Any person who violates any provision of this ordinance or any regulation adopted hereunder is guilty of an offense punishable by a fine not exceeding $1,500 or imprisonment for a period not to exceed 15 days, or both. Each week's continued violation shall constitute a separate violation.

B. Pursuant to § 268 of Article 16 of the Town Law, a violation of this ordinance is hereby declared to be an offense, punishable by a fine not exceeding $1,500 or imprisonment for

DRAFT

a period not to exceed fifteen days, or both. Each week's continued violation shall constitute a separate violation.

C. Notwithstanding any other provision to the contrary, upon a resolution of the Town Board, the Code Enforcement Officer and Town Attorney may bring an action in Supreme Court, Erie County in the name of the Town to abate violations, seeking preliminary and/or permanent injunctions. Such action may be in addition to, and not in lieu of, criminal enforcement as provided for herein.

§ 50-81. **Severability.**

If any section, clause or provision of this ordinance or the application thereof to any person or lands is adjudged to be invalid, the adjudication shall not affect other sections, clauses or provisions or the application thereof which can be sustained or given effect without the invalid section, clause or provision or application, and to this end, the various sections, clauses and provisions of this ordinance are declared to be severable.

§ 50-82. **Repealer.**

The provisions of Chapter 50 of the Code of the Town of Lancaster previously enacted and amended are repealed upon the adoption and publication of this ordinance as required by law.

DRAFT